

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHN DOE,

Plaintiff,

v.

RIDER UNIVERSITY,

Defendant.

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Civil Action No. 3:16-CV-04882-BRM-TJB

Jury Trial Demanded

AMENDED COMPLAINT AND JURY DEMAND

Plaintiff John Doe (“John” or “John Doe”), by and through his undersigned attorneys, files this Amended Complaint and, in support thereof, alleges as follows:

I. NATURE OF THE ACTION

1. On October 17, 2015, John was a freshman in good standing at Rider University (“Rider” or “University”). On October 18, two female Rider students, Jane Roe and Jane Roe 2, falsely accused John of a sexual assault that never happened. Despite significant contradictions in Jane Roe’s and Jane Roe 2’s allegations, the University blindly accepted them. In a rush to convict John and brand him a sexual predator, Rider immediately—and without any investigation—suspended John from the University. In the weeks and months that followed, while John was forced to sit at home, Rider subjected him to a Title IX disciplinary process that was unabashedly pro-complainant, refused to afford him any semblance of fundamental fairness, and expressly pre-judged him as guilty.

2. The pressure Rider places on its officials to believe and support alleged victims of sexual assault (who are almost invariably female) and punish the accused (who are almost

invariably male) is starkly illustrated by a blog post written on October 25, 2015, by a high-level Rider administrator who served on John's appellate panel just a few weeks later. After declaring that the "crusade to eradicate sexual assault on America's college campuses" "erode[s] the rights of the accused," the administrator said: "As I discovered earlier this year, when I dared, during supervisory training at a university, to criticize the due-process flaws in the campus-based system imposed by the DOE on sexual-assault investigations/adjudications, the attack dogs remain ready to slip their leashes against anyone with the temerity to come out openly against this latest American domestic 'war.'" *Castagnera on Employment and Education Law* (Oct. 25, 2015), available at <http://drcastagnera.blogspot.com/>.¹

3. The University's Title IX disciplinary process is in fact replete with "due-process flaws." And John was not merely the victim of a flawed process. He was the victim of a University that actively ignored its own policies and procedures—detailed in two student handbooks—whenever necessary to disadvantage and convict him. And he was the victim of former Associate Vice President for Student Affairs, Dean Anthony Campbell, who, as early as October 18, refused to hear John's account and announced, based on Jane Roe's and Jane Roe 2's allegations alone, "I'm going against you." Rider made good on Dean Campbell's promise, and did so from the start.²

4. While John was suspended and forbidden from continuing his coursework, Rider did nothing. No witnesses were interviewed. No investigation was conducted. The University, through its outside counsel, claimed that the Mercer County Prosecutor's Office requested that

¹ All on-line publications referenced in this Amended Complaint were last accessed February 13, 2018.

² Following the filing of John Doe's original Complaint, Dean Campbell left Rider University. While the cause is presently unknown, John Doe believes it was due, in whole or in part, to the Title IX and other violations described in this Amended Complaint.

the University put its disciplinary investigation on hold while the Prosecutor's Office conducted its investigation. That representation was false.

5. In mid-November, the Mercer County Prosecutor's Office declined to prosecute John. While the Prosecutor's Office did not disclose the reasons underlying its decision, presumably the decision was based on the inconsistent statements made by Jane Roe and Jane Roe 2, whose stories not only defied common sense but were constantly shifting.

6. But even after Mercer County refused to prosecute John, Rider and Dean Campbell continued the suspension they had imposed upon him. While John was forced to sit at home, the University conducted the most perfunctory of investigations. What little investigation the University did conduct focused only on facts it believed would incriminate John, while assiduously avoiding the facts that exculpated him.

7. The result of the University's investigation was a one and a half page letter charging John with sexual assault and warning him that if found "responsible," he faced punishment up to expulsion. The letter included no description of the alleged facts underlying the sexual assault charge. There was no complaint or anything akin to a formal notice of charges. Instead, John was left to guess at the facts that could end his academic career at Rider. John repeatedly asked the University for more information on the charges against him, but the University was content to let him guess.

8. On December 4, 2015, the University and Dean Campbell assembled a hearing Board, consisting of three members, to judge the evidence against John. All three Board members were administrators who reported directly or through others to Dean Campbell. John raised the clear conflict of interest with the University—after all, it was Dean Campbell who had originally declared he was "going against" John, suspended him, and continued that suspension

even after the Mercer County Prosecutor's Office declined prosecution—and sought the Board members' recusals. Rider denied John's request and allowed the hearing to proceed.

9. Prior to and then again at the disciplinary hearing, John asked for all medical reports or other medical evidence detailing Jane Roe's purported injuries. Rider denied John's request prior to the hearing and, at the hearing, the Board members quickly shut down all questions concerning Jane Roe's medical treatment.

10. But in the waning minutes of the hearing, the hearing Board allowed Jane Roe to testify about her medical treatment. She declared, without any support, that the results demonstrated she was the victim of a sexual assault. She did not state who made that finding or based on what evidence. She did not even specify the nature of the alleged sexual assault. Of course, John was unable to rebut Jane Roe's alleged results because the Board members had barred all questions about Jane Roe's medical treatment.

11. On December 8, 2015, in a one-page letter, John was found responsible by the hearing Board and expelled from the University. There was no written opinion from the Board explaining its decision or the punishment imposed. There were no findings of fact. There was no explanation about whom the Board judged credible and whom it judged incredible. There was only the statement that "[t]he Board finds you responsible for sexual assault (Level 1)" and the sanction: "Expulsion." At the beginning of this rigged process, John was left to guess at what he had been charged with. Now, he was left to guess at why he had been found responsible, and his college career ended only months after it had begun.

12. John appealed the hearing Board's decision, but with no written opinion to appeal, he did so blindly. On January 8, 2016, in yet another one-page letter, a separate appellate panel upheld the original hearing Board's responsibility finding and chosen punishment.

13. John's academic career at Rider was over. But beyond that, his education record has been permanently marred because he has effectively been branded as a sexual predator.

14. John will be permanently stigmatized by the fact that he was found responsible for sexual assault. He will have no choice but to disclose the finding whenever he is asked whether he was the subject of a college disciplinary proceeding or found responsible for a disciplinary violation, a common question in transfer applications to other colleges or for graduate or professional school, in professional licensure applications, in government employment applications, and in other employment or prospective employment circumstances.

15. Besides the irreversible damage to his educational, post-graduate, employment, and earning prospects, the University's finding of responsibility for sexual assault causes lasting social and reputational harm. The University's labeling of John as a "sexual predator" will continue to have dramatic, life-altering consequences for him.

16. Rider's conduct has caused John severe emotional and physical distress, including panic attacks, loss of appetite, an inability to sleep through the night, nightmares, and anxiety, all requiring counseling.

17. Rider acted with the knowledge that its policy and procedures favoring alleged victims would disproportionately impact male students and, motivated by that disproportionate impact, discriminated against John because of his gender and in violation of Title IX of the Education Amendments of 1972.

18. For these reasons, John brings this action to obtain injunctive and declaratory relief and monetary damages based on causes of action for breach of contract, breach of the implied covenant of good faith and fair dealing, violation of New Jersey's Consumer Fraud Act,

promissory estoppel and reliance, and violation of Title IX, all based on a disciplinary process that can only be labeled fundamentally unfair.

II. PARTIES

19. Plaintiff John Doe is a resident of Passaic County, New Jersey. During the 2015-2016 academic year, John was enrolled as a fulltime freshman at Rider. He was scheduled to graduate in June 2019.

20. Defendant Rider University is a private university located in Mercer County, New Jersey offering undergraduate and graduate degrees to approximately 5,000 students across 67 undergraduate and 35 graduate degree programs.

III. JURISDICTION AND VENUE

21. This Court has original jurisdiction over Count V, John's Title IX claim, pursuant to 28 U.S.C. § 1331 because that claim arises under the laws of the United States. This Court has supplemental jurisdiction over Counts I through IV and VI pursuant to 28 U.S.C. § 1367 because those claims are so related to John Doe's Title IX claim that they form part of the same case or controversy under Article III of the United States Constitution.

22. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to John's claims occurred in this district. Among other things, the alleged sexual assault occurred in this district, and the resulting disciplinary process unfolded here.

IV. FACTUAL BACKGROUND

A. The Alleged Sexual Assault

23. In the early morning hours of October 18, 2015, John returned to campus with three friends from an off-campus party. John was the designated driver that night, and was not

intoxicated. Upon entering Poyda Residence Hall, some of the boys entered the boys' restroom. It was there that John first encountered Jane Roe and Jane Roe 2 who were, for some reason, in the boys' restroom. Mindful of the girls, and slightly embarrassed, John went to the point furthest from the girls to use the bathroom.

24. Two of John's friends finished in the restroom and went to bed. When John left the restroom, he found his remaining friend, Joe Doe, speaking with Jane Roe and Jane Roe 2. John joined the conversation. Although neither John nor Joe Doe knew Jane Roe and Jane Roe 2, all four were freshmen at Rider and easily engaged in several minutes of conversation, discussing, among other things, where they were from, where they lived at Rider, coursework, and athletics.

25. After conversing for several minutes, John and Joe Doe asked Jane Roe and Jane Roe 2 if they wanted to return to Joe Doe's dormitory room. Both girls readily agreed. The four walked down the hallway from the boys' restroom to Joe Doe's dormitory room; Jane Roe and Jane Roe 2 walked to the room willingly, and without assistance, prodding, or coercion of any sort.

26. While it was clear that both Jane Roe and Jane Roe 2 had been drinking, it was equally clear that neither was incapacitated. Each was able to carry on a conversation, was coherent, was not slurring her words or in need of assistance to stand, and was otherwise in full command of her faculties. The same was not true of Joe Doe, who was quite clearly intoxicated, and would, almost immediately after the four students entered his room, pass out due to alcohol consumption.

27. In fact, all four students confirmed during the disciplinary proceeding that Joe Doe was by far the drunkest of the four. It was Joe Doe who, upon information and belief, may have been incapacitated because of how much he had had to drink that evening.

28. Upon entering the dormitory room, Jane Roe 2 and Joe Doe went to Joe Doe's bed, and Jane Roe and John went to Joe Doe's roommate's bed (Joe Doe's roommate was absent for the weekend). The lights were off, and the room was dark. Upon information and belief, Jane Roe 2 and Joe Doe engaged in consensual kissing and light touching for approximately 10 minutes, until Joe Doe passed out from his alcohol intake, and Jane Roe 2 left the dormitory room.

29. Before leaving the room, Jane Roe 2 asked Jane Roe if she wanted to leave as well. Jane Roe refused, stating that she wished to remain with John Doe.

30. Jane Roe and John Doe engaged in consensual kissing and light touching. Throughout the encounter, John remained fully clothed, including wearing his sneakers. Jane Roe was also fully clothed until Jane Roe 2 left the room, at which time Jane Roe, on her own and voluntarily, removed her blouse and bra. The entire encounter lasted no more than 20 minutes and progressed no further than John touching Jane Roe's breasts and Jane Roe rubbing her hands over John's genitals over his pants. John also sucked on Jane Roe's lips and neck, leaving her with a hickey. Importantly, for most of the encounter, Jane Roe was on top of John.

31. Equally important, in both words and actions, Jane Roe at all times indicated a willingness to engage in kissing and sexually explicit touching with John. In fact, she indicated a willingness to do more, telling John at the beginning of their encounter that they could not have sexual intercourse because she had her period even though John neither asked nor wanted to have intercourse with Jane Roe.

32. The encounter came to an end when Jane Roe and John were interrupted by banging on the dormitory room door and several voices shouting, “Jane.” Upon hearing the knocking and voices at the door, Jane Roe put her bra and blouse back on in the dark room, opened the door, and rejoined her friends.

B. Public Safety Conducts Preliminary Interviews

33. Upon information and belief, when Jane Roe rejoined her friends, they noticed that her blouse was on backwards, and there was a hickey on her neck. At least one of her friends believed that the backwards blouse and hickey indicated a non-consensual encounter. Indeed, one of Jane Roe’s male friends confronted John and asked him what he had done to Jane Roe. John responded that he had not forced Jane Roe to do anything and that his encounter with Jane Roe was voluntary and consensual.

34. Following that exchange, John closed the door and went to bed.

35. Two hours later, at approximately 5:00 a.m., John was awoken by Public Safety. He was told that the officers were investigating a sexual assault and that they needed John to accompany them to the Public Safety building to provide a written statement. John complied.

36. Upon information and belief, between the time Jane Roe left Joe Doe’s dormitory room and the time John was awoken by Public Safety, Jane Roe’s friends convinced Jane Roe that she was the victim of a sexual assault, and she should report the incident to University officials. Upon information and belief, but for her friends’ persistent and misguided prodding, Jane Roe would not have reported her consensual encounter with John to Public Safety.

37. At the Public Safety building, John was not told anything about the nature of Jane Roe’s allegations, but he provided officers with a written statement nonetheless. That statement acknowledged that Jane Roe had been drinking, but made clear that John’s encounter with Jane

Roe was at all times consensual. John's statement was also explicit in stating that he and Jane Roe never progressed beyond kissing and touching; there was no penetrative sexual activity between the two, no oral sex, and no attempted oral sex.

38. Public Safety also instructed Joe Doe to provide a written statement. His statement was consistent with John's.

39. More significantly, John's statement—without knowing what Jane Roe had alleged—was consistent with what Jane Roe initially told Public Safety.

40. Prior to interviewing John, at approximately 4:52 a.m., two Public Safety officers had interviewed Jane Roe. During that interview, she stated that “she did not believe that the acts performed [between her and John] involved either her, or John[’s] genitals.” Later, at approximately 6:53 a.m., Jane Roe reaffirmed that statement to Public Safety. Specifically, she was asked, “When you say things got sexual, what exactly took place?” Jane Roe responded, “There was kissing and touching involved. John began to unzip my pants[,] and I stopped him several times [when] this occurred. It wasn't until the RA threat that he completely stopped.”

41. In that same statement at 6:53 a.m., Jane Roe admitted that she “insisted on staying” with John even after Jane Roe 2 left Joe Doe. Jane Roe also stated that while she did not give “100% consent to the situation,” she “did not fully deny it” either.

42. Jane Roe 2 was likewise twice interviewed by Public Safety officers in the early morning hours of October 18. Her statements were internally contradictory and defied commonsense. On the one hand, she described the dormitory room as “very dark,” but on the other claimed she witnessed John “violent[ly] touching” Jane Roe. And despite this supposed “violent touching,” Jane Roe 2 left the dormitory room without Jane Roe or trying to get Jane Roe to come with her.

43. Importantly, in neither statement did Jane Roe 2 allege sexual contact between her and Joe Doe, much less a sexual assault.

C. Hours Later, Jane Roe And Jane Roe 2 Tell The Lawrence Township Police Department Wildly Different Stories From What They Earlier Told Public Safety

44. Upon information and belief, sometime in the afternoon of October 18, Jane Roe and Jane Roe 2, along with their parents, met with Dean Anthony Campbell. During that meeting, Dean Campbell saw the hickey on Jane Roe's neck and said the bruise was more consistent with an assault than a hickey. He urged Jane Roe and Jane Roe 2 to file a report with the Lawrence Township Police Department.

45. Jane Roe and Jane Roe 2 complied. And when they filed their reports with the Police Department during the late evening hours of October 18, they recounted stories for law enforcement officers dramatically different from those they had twice shared with Public Safety just hours earlier and before they had time to speak with one another, their parents, or Dean Campbell.

46. Jane Roe changed her story about her encounter with John. Her new story was directly opposed to what she had twice told Public Safety closer in time to the alleged incident. For the first time, Jane Roe claimed that John "forcibly push[ed] her head down and plac[ed] his penis in her mouth." Previously, Jane Roe had told Public Safety that "she did not believe that the acts performed [between her and John] involved either her, or John['s] genitals."

47. Jane Roe 2 likewise manufactured new "facts." For the first time, she claimed that she was the victim of a sexual assault. Specifically, Jane Roe 2 claimed that Joe Doe had digitally penetrated her vagina and rubbed her breasts. For the first time, she claimed that she had seen John pushing Jane Roe's head into his groin area. And for the first time, she claimed

that she had to force her way out of the dormitory room; previously, Jane Roe 2 said she had simply left the room.

48. Based on Jane Roe's and Jane Roe 2's statements, on October 19, 2015, Dean Campbell suspended John from the University for sexual assault.

49. The University took those actions before either law enforcement officers or University officials had any opportunity to investigate Jane Roe's and Jane Roe 2's allegations and before John Doe or Joe Doe had a chance to rebut those allegations and present their case pursuant to the University's Anti-Harassment and Non-Discrimination Policy ("Policy")—a Policy that entitles students charged with sexual assault or misconduct to certain rights and protections.

50. From the outset, the University violated both the letter and spirit of its own Policy and the provisions of its student handbook, The Source, in its handling of the allegations against John.

D. Rider's Policy And Procedures Governing Claims Of Sexual Assault Or Misconduct

51. Whenever there is an allegation of sexual assault or misconduct against a Rider student, the investigation and, if necessary, adjudication of that allegation is governed by the Policy. John was provided with a copy of the Policy at the time of his suspension and was told—repeatedly throughout the process—that Rider would abide by the Policy and afford him all of the rights and protections included therein. John relied on those representations and promises.

52. John was also provided with a copy of or referred to The Source at the time of his suspension and was told—then and repeatedly throughout the process—that Rider would abide by The Source and afford him all of the rights and protections included therein. John relied on those representations and promises.

53. Specifically, on October 18, 2015, Dean Campbell provided a copy of the Policy to John Doe in Dean Campbell's office and referred him to The Source. At that time, Dean Campbell pledged to John Doe that the University would abide by the procedures outlined in both and that the process would be fair. Similar pledges were made to John Doe, his family, and his attorney throughout the investigation and adjudication process. Specifically, and by way of example only:

- a. On October 19, 2015, Dean Campbell sent a letter to John Doe addressed to John Doe at his parents' home. The letter advised John Doe of his interim suspension, quoted language from The Source, explained that, pursuant to The Source, a community standards panel would be convened to review the interim suspension imposed by Dean Campbell, and provided a hyperlink to The Source.
- b. On or about October 30, 2015, when the community standards panel was convened, the chairwoman of the panel represented to John, his parents, and his counsel, with the University's counsel present, that the University would follow the procedures outlined in the Policy and The Source.
- c. On November 24, 2015, Keith Kemo, the Director of the University's Office of Community Standards, sent a letter to John Doe addressed to John Doe at his parents' home. The letter announced the charges against John Doe under the Policy, identified the three-person Student Anti-Harassment and Non-Discrimination Board ("Board") that would hear the charges against John Doe, of which Mr. Kemo was the Board chairperson, and alerted John Doe that there would be a pre-hearing conference to

discuss the hearing process on December 1, 2015. The letter concluded by stating that “[i]t is the responsibility of every student to know and abide by the University’s policies and procedures. It is of the utmost importance that students participating in this process read the Policy before the hearing.” The letter included a hyperlink to the Policy.

- d. On December 1, 2015, John Doe, along with his parents and attorney, met with Mr. Kemo in Mr. Kemo’s office on the Rider University campus for the pre-hearing conference. At that meeting, Mr. Kemo explained that the hearing would proceed in accordance with the Policy, answered several questions posed to him by referring to specific sections of the Policy, and assured John Doe, his parents, and his attorney that John Doe would be treated fairly and in accordance with the Policy. Equally, he warned that the Board, and Mr. Kemo in particular, would not permit John Doe to admit evidence or proceed at the hearing in any manner inconsistent with the Policy.
- e. In the December 8, 2105, letter announcing the Board’s decision, Mr. Kemo stated that if John filed an appeal it would be resolved in accordance with the Policy.

54. The pledges from the University, its administrators, and representatives proved false. The University disregarded both the Policy and The Source throughout the investigation and adjudication of John Doe.

55. The Policy begins with the following commitment in the form of a letter to the community from Robert Stoto, the University’s Title IX Coordinator: “All students, faculty,

administrators and staff at the University have the right to expect an environment that allows them to enjoy the full benefits of their work or learning experience,” and the University “prohibits *all* forms of discrimination” (Policy at Notice of the Title IX Coordinator, attached hereto as Exhibit A) (emphasis added).

56. The Policy repeatedly promises that all aspects of a disciplinary proceeding will be handled in a fair, unbiased, and impartial way, consistent with principles of due process.

Relevant provisions include:

- a. A promise that the University will “promptly investigat[e] and resolv[e] complaints of student violations of the Policy in a fair, unbiased and impartial manner.” (Ex. A at 15).
- b. A promise that the matter will be assigned to “a trained investigator or investigators (the ‘Investigator’) to promptly, fairly and impartially investigate the complaint.” (Ex. A at 18).
- c. A promise that a respondent will be notified of the basis of any complaint or charges, both at the outset of the investigation and before any formal hearing. (Ex. A at 18-19).
- d. A promise that if a formal hearing is conducted, it will be before a Student Anti-Harassment and Non-Discrimination Board “composed of three (3) impartial and trained, professional staff members of the University community appointed by the Title IX Coordinator (or designee)”; that “the Board’s procedures are designed to ensure due process for the complainant and respondent”; and that “Board members will serve as impartial fact

finders and not as advocates for either the complainant or respondent.”
(Ex. A at 21).

- e. A promise that a respondent will be found responsible only if a finding of responsibility is supported by a “preponderance of the evidence”; i.e., if “the University establishes that it is more likely than not that the respondent is responsible for committing the act or acts complained of.” (Ex. A at 23).
- f. A promise that any sanctions will be “fair and proportionate to the violation and in the interests of the University community, including the respondent and complainant,” and will be “warranted by a preponderance of the evidence.” (Ex. A at 24).
- g. A promise that appeals will be heard by an appellate panel “consisting of three (3) impartial and trained University officials” who will “overturn a Board’s decision if it finds that the Board exceeded the bounds of the rationally available choices given the facts and standards set forth in the Policy.” (Ex. A at 25).

57. John Doe, however, was denied a fair, unbiased, and impartial process and was subjected to discrimination because of his gender. As set forth more fully below, the University repeatedly ignored and violated the Policy and The Source during its investigation and adjudication of John. Those violations, both separately and in the aggregate, created a fundamentally unfair process under which John was adjudged guilty from the very first and stripped of his ability to adequately defend himself and demonstrate his innocence.

E. Rider And Dean Campbell Repeatedly Violate The University's Anti-Harassment And Non-Discrimination Policy, As Well As The Source, In The Lead-up To The Formal Hearing

58. In the lead-up to the formal hearing, Rider and its agents repeatedly violated both the Policy and The Source. (Relevant pages of The Source are attached hereto as Exhibit B).

59. The Source provides for interim suspension “[w]hen immediate action is necessary to protect the health or safety of any community member or to prevent disruption to the University’s learning environment” (Ex. B at 89).

60. According to The Source, if an interim suspension is imposed: “Within five academic days of the invocation of this suspension, a community standards panel must determine whether grounds still exist to warrant its continuation. If there is a reasonable basis to conclude that the student may be responsible for the activity in question, and there is a possible threat to health and safety, or a threat of disruption of the normal operating procedures, the suspension may be continued.” (Ex. B at 89).

61. Of course, to fulfill its obligation to determine whether grounds exist to continue a suspension, the community standards panel must be independent of and serve as a check on the University and the decision-maker who imposed the interim suspension. Indeed, The Source prohibits conflicts of interest, stating that “Community Standards Board members who have direct interest or potentially prejudicial interest in a particular proceeding should declare themselves ineligible to hear the matter and withdraw from the proceeding.” (Ex. B at 90).

62. Rider’s Public Safety Office issued an e-mail alert to campus in the evening of October 18, 2015, stating that it had received a report of a sexual assault involving “two students who are known to one another” and that “[t]here is no reason to believe that the safety of the *Rider community on either the Lawrenceville or Princeton campuses is adversely affected as a result of this incident.*” (Emphasis added).

63. By letter the next day, however, Dean Campbell suspended John stating:

As a result of the incident you were involved in on the morning of Sunday, October 18, 2015 and the fact that it is now being investigated by the Mercer County Prosecutor's Office Special Victim's Unit, I have hereby determined that immediate action is necessary to protect the health and safety of Rider University community members and prevent disruption of the University's learning environment. Accordingly, you are hereby placed on interim suspension from the University. During this time, you are not permitted on campus for any reason, absent written permission from my office.

64. Pursuant to The Source, a community standards panel was empaneled to review Dean Campbell's interim suspension order. John presented his case before the community standards panel, and was thereafter excused so the panel could conduct its deliberations.

65. The room that John, his parents, and his attorney were excused to was in the Vice President for Student Affairs' office suite. During the time the community standards panel was purportedly deliberating, John, his parents, and his attorney witnessed the chairwoman of the panel having discussions with Dean Campbell. While they could not hear those discussions, upon information and belief, the chairwoman of the panel was discussing John's case and the interim suspension with the Dean. Such discussions were a clear violation of The Source and the community standards panel's obligation and function to be an independent check on Dean Campbell.

66. The community standards panel upheld and continued the interim suspension. John was not advised of any grounds for the finding that he posed a threat to anyone's health or safety, and there were no such grounds.

67. In the weeks following the community standards panel's decision to uphold John's interim suspension, Rider conducted no investigation, purportedly because it was waiting for the Mercer County Prosecutor's Office to complete its investigation.

68. In mid-November, the Mercer County Prosecutor's Office declined to prosecute John.

69. Rider purported to conduct an investigation of Jane Roe's and Jane Roe 2's allegations consistent with the Policy. Instead, the University's investigation deviated from the Policy in a number of material ways—all detrimental to John Doe.

70. As set forth above, the Policy requires "a trained investigator or investigators to promptly, fairly and impartially investigate the complaint." (Ex. A at 18). One of the officers assigned by the University to investigate Jane Roe's complaint was Detective William Eggert of Rider's Public Safety Office. Detective Eggert was neither fair nor impartial.

71. Detective Eggert assembled a summary affidavit detailing Jane Roe's and Jane Roe 2's allegations. The affidavit parroted Jane Roe's and Jane Roe 2's statements to the Lawrence Township Police Department and completely ignored the girls' earlier—and contradictory—statements to Public Safety, the office out of which Detective Eggert himself works. Detective Eggert made no attempt to be complete, let alone impartial. He simply accepted wholesale Jane Roe's and Jane Roe 2's changed and contradictory statements without exercising a critical or inquiring eye.

72. Detective Eggert and officials likewise failed to take the investigative steps required by the Policy. According to the Policy, "In the case of sexual violence, a sexual assault response team (SART) will be activated by the hospital should a victim seek medical attention and/or wish to have evidence collected. A specially trained sexual assault nurse examiner (SANE) will respond as part of the team to perform the examination. The evidence will be secured whether or not a victim decides to pursue criminal prosecution." (Ex. A at 10).

73. Jane Roe alleged that she was the victim of a sexual assault. John requested from the University all evidence secured by the SART and SANE; John was told that none existed. Detective Eggert's and the University's failure to abide by the Policy and activate a SART and SANE in response to Jane Roe's allegations of sexual assault impeded John's ability to challenge Jane Roe's allegations or otherwise impeach Jane Roe's and Jane Roe 2's credibility.

74. But while the University demonstrated its bias against John, a male respondent, through its investigation of—or failure to thoroughly investigate—Jane Roe's and Jane Roe 2's allegations, clearer evidence came through the words of University officials themselves.

75. First, there was Dean Campbell's statement on or about October 18 that he was “going against” John.

76. That was followed by a November 19 e-mail from Rider's outside counsel to John's counsel, refusing John's request that Rider lift his interim suspension after the Mercer County Prosecutor decided not to prosecute John. That e-mail asserted:

We ... have statements from those involved in the incident (including your client) that reveal your client and another student encountered two female students, who no one disputes, were under the influence of alcohol. Also undisputed are the facts that your client and the other male student met these female students for the first time on the evening/morning in question and within minutes of meeting them, proceeded to take the two female students back to a dorm room. Once in the room, and again undisputed, the room was dark and your client and the other male student separated the female students and took them to separate beds. Because an individual that is under the influence of alcohol cannot give consent, any activity that occurred in the dorm room, was non-consensual. ... I am not deciding this case, but the above facts reveal [that the interim suspension of John was supported by sufficient evidence].

I also want to respond to your contention that the two female students are not credible because they have inconsistent statements. There are numerous articles/studies that reveal that it is not unusual – and indeed typical – for sexual assault victims to

give inconsistent statements. While your client is free to point out the inconsistencies, he (and you) should be aware that there is a contrary view.

77. While the University's attorney was careful to say that he was "not deciding the case," he did just that, characterizing the female students as passive victims, saying his version of events was "undisputed" when it was not, and declaring that "any activity that occurred in the dorm room, was non-consensual."

78. Equally jarring, there was no mention of Joe Doe's intoxication and potential incapacitation—a fact that actually *was* "undisputed." If an "individual that is under the influence of alcohol cannot give consent," then Joe Doe could not have given consent to engage in sexual activity with Jane Roe 2. But the University never considered that and never investigated Jane Roe 2 for violations of the Policy. What Rider's attorney was really saying in his e-mail was that a *female* "under the influence of alcohol cannot give consent." The University exhibited no concern about a male under the influence of alcohol.

79. The University's attorney reached his conclusion that John Doe's encounter with Jane Roe was "non-consensual" before the University's investigation was completed, before any formal hearing was convened, and before John ever had the opportunity to present his full version of the night's events or confront Jane Roe or Jane Roe 2, thereby confirming that the University had pre-judged John's case and found him guilty.

80. Moreover, the University's attorney reached this conclusion by misconstruing the Policy. The Policy does not state that a person "under the influence of alcohol" cannot give consent. Rather, the Policy says that an incapacitated student cannot give consent. (Ex. A at 4) ("A person who is asleep or mentally or physically incapacitated, whether due to the effect of drugs or alcohol, or for any other reason, is not capable of giving valid consent."). There was

absolutely no evidence proffered either before or after the attorney's email indicating that Jane Roe was incapacitated at the time of her encounter with John.

81. This rush to believe Jane Roe—a female—to the detriment of John Doe—a male—was fundamentally unfair, but not surprising given the bias Rider exhibited in favor of Jane Roe and against John Doe throughout the disciplinary process. Indeed, Rider has made explicit where its sympathies lie in instances of alleged sexual assault. On its webpage titled “Sexual Assault,” Rider gives the following advice about how to help a friend who has been sexually assaulted: “BELIEVE the survivor.” (See <https://www.rider.edu/student-life/health-wellness/counseling-services/sexual-assault>) (emphasis in original).

82. The result of the University's “investigation” was a one and a half page letter titled “Notice of Charges” and dated November 24, 2015, charging John with sexual assault and advising him that his punishment could include expulsion from the University.

83. The Policy defines “sexual assault” broadly and sets forth a number of different factors that could lead to a finding of sexual assault. According to the Policy, a sexual assault “occurs when an unwelcomed physical contact of a sexual nature is intentional and is committed either by (a) physical force, violence, threat, or intimidation; (b) ignoring the objections of another person; (c) causing another's intoxication or impairment through the use of drugs or alcohol; or (d) taking advantage of another person's incapacitation, state of intimidation, helplessness, or other inability to provide consent.” (Ex. A at 5).

84. The letter charging John failed to identify what subsection or subsections of the sexual assault definition John had allegedly violated. It also did not specify the factual basis for the charge. It was unclear if the charge was premised on the hickey on Jane Roe's neck, Jane Roe's contradictory allegations regarding oral sex, Jane Roe's alcohol consumption, or

something else. Several times, both in writing and orally, John asked the University to clarify its theory of the charge and the supporting alleged facts so he could prepare his defense and secure his right to a fair process guaranteed by the Policy. Each time, the University refused.

85. As a result, John did not have adequate notice of the alleged facts supporting the alleged Policy violation or of what aspect of the sexual assault provision he was alleged to have violated.

86. Without adequate notice of the facts and allegations supporting the alleged Policy violation, John was unfairly hindered in his efforts to defend himself against Jane Roe's accusations.

F. Rider And Dean Campbell Continue To Violate The University's Anti-Harassment And Non-Discrimination Policy During The Disciplinary Hearing And Appeal

87. A formal hearing before a three-person Board was set for December 4.

88. As set forth above, the Policy promises a trained, impartial Board, serving as "impartial fact finders and not as advocates for either the complainant or respondent," and procedures "designed to ensure due process for the complainant and respondent...." (Ex. A at 21). The University violated this mandate from the start.

89. On information and belief, the Board (and all University officials involved in this proceeding) were trained by the University to favor the female complainant and disregard the due process rights of the accused male.

90. In addition, Mr. Kemo, who issued the "Notice of Charges" to John, also served as chair of the hearing Board.

91. In addition, just days before the December 4 formal hearing, John learned that the three designated Board members all reported, either directly or through others, to Dean

Campbell. This was a clear conflict of interest. It was Dean Campbell who had urged Jane Roe and Jane Roe 2 to make a report to the Lawrence Township Police. It was Dean Campbell who had suspended John on October 19, 2015. It was Dean Campbell who had summarily declared that he was “going against” John. And, on information and belief, it was Dean Campbell who had directed the community standards panel to continue John’s interim suspension.

92. Dean Campbell also had actively impeded John’s efforts to continue his coursework notwithstanding the interim suspension. Pursuant to the Policy (*see* Ex. A at 11), John made an appeal to the University and Dean Campbell for academic support during his interim suspension, but the University and Dean Campbell refused.

93. Despite this clear conflict of interest, the University failed to recuse any of the Board members.

94. As feared, the Board members’ bias quickly became evident.

95. The Board vigorously and aggressively questioned John, while delicately questioning Jane Roe, Jane Roe 2, and their witnesses.

96. John asked the Board to question Jane Roe and Jane Roe 2 about the contradictions in their statements, but the Board refused.

97. Prior to and again at the formal hearing, John had requested all medical records from Jane Roe. Jane Roe and the University failed to provide John with the requested records.

98. According to the Policy, “In the absence of good cause as determined by the Board Chair in their sole discretion, the complainant and respondent may not introduce witnesses, documents, or other evidence at the hearing that were not timely provided to the Board Chair as set forth above.” (Ex. A at 21-22). But the Board was content to ignore this directive, and allowed Jane Roe to provide verbal testimony of the results of her medical

treatment. According to Jane Roe, those results showed that she was the victim of a sexual assault.

99. When John attempted to question Jane Roe about her medical records, the Board quickly and abruptly blocked the questioning. This was a clear violation of the Policy.

100. According to the Policy, “The Board Chair is empowered to disallow any questions that are irrelevant or redundant.” (Ex. A at 23). John’s questions about Jane Roe’s medical records and treatment were neither irrelevant nor redundant, particularly when the Board invited those questions by ignoring the Policy to favor Jane Roe and allow her to enter evidence about her medical treatment that was never provided to John and that he was not allowed to rebut or challenge in any way.

101. Such actions were fundamentally unfair and denied John the “due process” the Policy promised.

102. On December 8, 2015, in a one-page letter, the Board found John responsible for sexual assault and expelled him from the University. There was no written opinion, no basis for the Board’s decision, and no explanation of how the Board resolved the inconsistencies in the statements of Jane Roe and Jane Roe 2. Just as John was left to guess at what he had been charged with, he was left to guess at why he had been found responsible and based on what alleged conduct.

103. John appealed the Board’s decision, but without an opinion or other decision to challenge, he was forced to guess at the basis for the decision.

104. As set forth above, the Policy promises appeals will be heard by a trained, impartial appellate panel. (Ex. A at 25).

105. One of the appellate panel members, however, only a few weeks before being selected for the panel, had reported being attacked when he “dared . . . to criticize the due-process flaws in the campus-based system imposed by the DOE on sexual-assault investigations/adjudications.” See <http://drcastagnera.blogspot.com/>.

106. On January 8, 2016, the appellate panel rendered its decision, upholding the Board’s decision and sanction. Consistent with everything that came before, the University delivered this decision in a one-page letter, without explaining the decision and without addressing the issues John raised in his appeal.

107. In every substantive phase of the disciplinary proceedings in John’s case, Rider University committed material breaches of its written policies and procedures, which resulted in a fundamentally unfair disciplinary process and an erroneous outcome.

G. Rider Continues To Violate Its Contractual Obligations And Duties Under The Family Educational Rights And Privacy Act (“FERPA”) By Refusing To Provide John With The Audio Recordings Of The Disciplinary Hearing

108. Promptly following the conclusion of the disciplinary hearing and appeal, John, through his attorney, made several requests, both orally and in writing, for copies of the audio recordings of his disciplinary hearing, which are part of his educational record.

109. In response to John’s several requests, the University’s attorney assured John’s attorney that copies of the audio recordings would be promptly provided. They never were, nor was John ever allowed by the University to make an appointment to listen to the audio recordings on Rider’s campus. Years later, John is still without the audio recordings of his own disciplinary hearing.

110. The University’s continued refusal to provide John with copies of the audio recordings is a violation of the University’s obligations as outlined in The Source. (Ex. B at 72-

73) (“Students who want to inspect and review their records may make an appointment with the Dean of Students or his/her designee, Bart Luedeke Center, Students Affairs Suite, on the Lawrenceville campus.... Copies of information contained in a student’s own file may be requested, in writing, and will generally be released only if failure to do so would effectively prevent a student from reviewing his/her records.”).

111. The University’s continued refusal to provide John with copies of the audio recordings is also a violation of the University’s acknowledged obligations under FERPA. On the University’s own website, under a link entitled “FERPA Resources,” the University acknowledges that pursuant to FERPA, “College students must be permitted to inspect their own education records.” (*See also* Ex. B at 73) (discussing a student’s right to access his or her education records in accordance with FERPA).

112. Perhaps most importantly, the University’s refusal to provide John with copies of the audio recordings has inhibited John’s ability to meaningfully consult with his attorneys, prepare the original Complaint and this Amended Complaint, and, ultimately, vindicate his rights.

H. In Stark Contrast To Its Treatment Of The Male Respondents, The University Failed To Investigate Whether Jane Roe 2 Violated The Policy

113. On information and belief, Joe Doe was suspended, investigated, and found responsible for sexual assault or sexual misconduct based on Jane Roe 2’s allegations that the two of them had had sexual contact on October 18, 2015.

114. As noted above, all four students involved in the October 18 incident told University officials that Joe Doe was the drunkest of the four, and he was undisputedly more intoxicated than Jane Roe 2. Indeed, Joe Doe passed out due to alcohol consumption just minutes into his encounter with Jane Roe 2.

115. According to the Policy, sexual assault includes contact of a sexual nature that is committed by “taking advantage of another person’s incapacitation, state of intimidation, helplessness, or other inability to provide consent.” (Ex. A at 5). The Policy expressly provides that “[i]t is incumbent upon *each* individual involved in [an] activity to either obtain or give consent prior to any sexual activity . . . and that “[a] person who is . . . mentally or physically incapacitated, whether due to the effect of drugs or alcohol, or for any other reason, is not capable of giving valid consent.” (Ex. A at 3-4) (emphasis added).

116. Despite the facts and the provisions of the Policy, Rider decided to investigate and charge Joe Doe with violations of the Policy, and did not investigate or charge Jane Roe 2.

117. Rider contends that it had no obligation to investigate whether Jane Roe 2 assaulted Joe Doe because Joe Doe purportedly did not make a formal complaint against her. Under the Policy, however, the University is obligated to investigate and take appropriate steps when it learns of facts that could constitute sexual assault, whether or not a student makes a formal complaint. As set forth in the Policy:

Disclosing an incident to the Title IX Coordinator, Associate Vice President for Student Affairs, Department of Public Safety or any other responsible employees (described in the section that follows) constitutes a report to the University and generally obligates the University to investigate the incident and take appropriate steps to address the situation. Responsible employees are required to report information concerning an incident to the Title IX Coordinator.

(Ex. A at 8).

118. “All Rider University employees (faculty, administrators and staff) are considered responsible employees,” with a few limited exceptions not applicable here. “When a complainant tells a responsible employee about an alleged violation of the Policy, the responsible employee *shall* report the incident to the Title IX Coordinator, *who will take*

immediate and appropriate steps to investigate what happened and to resolve the matter promptly, fairly and impartially.” (Ex. A at 9) (emphasis added).

119. During Rider’s investigation of the October 18 incident, “responsible” employees learned of facts that could constitute sexual assault by Jane Roe 2 and failed to investigate or address the situation. On information and belief, the University also did not offer or give to Joe Doe any of the rights listed in the Victim’s Bill of Rights set forth in the Policy at pages 31-32. This further demonstrates that at Rider University, when there is a dispute concerning a sexual encounter, the female is the victim and the male is the aggressor.

I. The False Accusations Leveled Against John, And Rider’s Uncritical Embrace Of Those Allegations, Have Left John Emotionally Scarred

120. Rider University’s Title IX disciplinary process is fundamentally flawed. While it promises fairness for both complainant and respondent, it is concerned with the complainant alone—at least so long as the complainant is female. Dr. James Castagnera, Esq., Rider’s Associate Provost/Legal Counsel for Academic Affairs and one of the members of John’s appellate panel, made this very point in his October 26, 2015 blog post, just a few weeks before handling John’s appeal. (See <http://drcastagnera.blogspot.com/>).

121. In his post Dr. Castagnera quoted a university administrator’s comments on the Title IX process: “In order to remedy the lack of quick and effective resolution of sexual assault cases in our courts, the Department of Education wants colleges and universities to do what the justice system can’t ... by lowering the standard of proof from ‘beyond a reasonable doubt’ to ‘more likely than not,’ and requiring that sexual-assault investigations plus adjudications be completed in 60 days.”

122. Dr. Castagnera continued, “As I discovered earlier this year, when I dared, during supervisory training at a university, to criticize the due-process flaws in the campus-based

system imposed by the DOE on sexual-assault investigations/adjudications, the attack dogs remain ready to slip their leashes against anyone with the temerity to come out openly against this latest American domestic ‘war.’”

123. On information and belief, Dr. Castagnera was writing about Rider University, and the administrator he referred to was from Rider.

124. Dr. Castagnera’s comments are clear in their message and chilling in their import. As Dr. Castagnera observed, Rider University has created a disciplinary process designed to remedy perceived flaws in the criminal justice system at the expense of fundamental fairness for the accused. University officials are trained *not* to provide basic due process protections, and are attacked if they criticize the system.

125. The “due-process flaws” that Dr. Castagnera wrote about were lived—for months—by John. And John still lives with the consequences today. As a result of the University’s uncritical and unquestioning embrace of Jane Roe’s and Jane Roe 2’s allegations, and the University’s flawed Title IX disciplinary process, John has experienced significant emotional and psychological scarring.

126. Following imposition of the interim suspension on October 19, John locked himself away in his parents’ home. Depressed, he sought professional counseling. He continues to receive treatment today.

127. And John’s wrongful accusation and expulsion has had real and visible health effects on John. He has had wild fluctuations in weight, suffered sleepless night after sleepless night, and had, almost on a weekly basis, severe emotional breakdowns during which neither family members nor friends was able to console him.

128. At various points throughout the University's investigation and disciplinary process, John telephoned his parents distraught. On several occasions, one or both of John's parents were forced to rush home for fear that John might hurt himself.

COUNT I
(Breach of Contract)

129. John repeats and alleges each and every allegation hereinabove as if fully set forth herein.

130. At all times relevant hereto, a contractual relationship existed between John and the University through the Policy and The Source.

131. Rider is required to act in accordance with its written policies and procedures in investigating and adjudicating reports of alleged violations of student conduct standards.

132. Based on the aforementioned facts and circumstances, Rider materially breached its express and/or implied agreement(s) with John by failing to comply with its obligations, standards, policies, and procedures in the course of the disciplinary proceedings against John, and by subjecting him to a fundamentally unfair process.

133. Rider's material breaches included, without limitation, the following acts or omissions:

- a. Imposing and continuing John's interim suspension through a process that did not allow independent review of the initial decision to suspend, and with no basis for concluding that he posed a threat to health or safety;
- b. Conducting an investigation that was neither fair nor impartial;
- c. Failing to follow the Policy regarding gathering evidence by the SART and SANE;

- d. Prejudging John's guilt from the start and continuing that judgment throughout the process;
- e. Applying an inappropriate standard to the issue of Jane Roe's capacity to consent;
- f. Misconstruing the appropriate standard for lack of capacity to consent to sexual activity;
- g. Failing to give John proper notice of the charges against him or the factual basis for those charges, failing to provide the bases for a finding of responsibility, and/or failing to provide in its procedures for adequate notice of charges or the bases for decisions;
- h. Failing to convene an impartial and unbiased hearing Board free from conflicts of interest;
- i. Failing to conduct an impartial and fair hearing by, among other things, subjecting John, the accused, to harsher questioning than that used with Jane Roe or her witnesses, refusing to adequately question Jane Roe and her witnesses about inconsistencies in their statements, and allowing Jane Roe to introduce medical evidence that was not previously submitted to the Board Chair as required by the Policy;
- j. Failing to apply a preponderance of the evidence standard;
- k. Imposing a sanction that was not fair or proportionate to the alleged violation;
- l. Failing to train its officials to handle sexual assault allegations fairly and impartially, and, on information and belief, training them instead to ignore

the due process rights of the accused and focus on “victim assistance and support.” (See, e.g., Rider guidelines on sexual assault,

<https://www.rider.edu/student-life/health-wellness/counseling-services/sexual-assault#support>; see also <http://www.rider.edu/student-life/health-wellness/counseling-services/sexual-assault>; <http://drcastagnera.blogspot.com/>; and

- m. Failing to provide John with copies of the audio recordings of the disciplinary hearing to which he was entitled.

134. John is entitled to recover damages for Rider’s breach of its express and/or implied contractual obligations described above.

135. As a direct, proximate, and foreseeable consequence of these breaches, John sustained significant damages, including, without limitation, emotional distress, physical distress, loss of educational and athletic opportunities, economic injuries, and other direct and consequential damages.

136. As a result of the foregoing, John is entitled to damages in an amount to be determined at trial, plus prejudgment interest, attorneys’ fees, expenses, costs, and disbursements.

COUNT II
(Breach of the Implied Covenant of Good Faith and Fair Dealing)

137. John repeats and alleges each and every allegation hereinabove as if fully set forth herein.

138. Based on the aforementioned facts and circumstances, Rider breached and violated the covenant of good faith and fair dealing implied in the agreement(s) between the University and John by failing to abide by its own policies and procedures and by disciplining

John notwithstanding the lack of evidence in support of Jane Roe's claim of sexual assault, other than Jane Roe's threadbare and inconsistent statements.

139. As a direct, proximate, and foreseeable consequence of these breaches, John sustained significant damages, including, without limitation, emotional distress, physical distress, loss of educational and athletic opportunities, economic injuries, and other direct and consequential damages.

140. John is entitled to recover damages for Rider's breach of the implied covenant of good faith and fair dealing described above.

141. As a result of the foregoing, John is entitled to damages in an amount to be determined at trial, plus prejudgment interest, attorneys' fees, expenses, costs, and disbursements.

COUNT III
(New Jersey Consumer Fraud Act)

142. John repeats and alleges each and every allegation hereinabove as if fully set forth herein.

143. New Jersey's Consumer Fraud Act, N.J.S.A. § 56:8-2, provides consumer protection by declaring as unlawful an "act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby."

144. Rider has engaged in the following acts or practices that are deceptive or misleading in a material way, or committed deceptive acts or practices that were aimed at the consumer public at large and were a representation or omission likely to mislead a reasonable consumer acting reasonably under the circumstances:

- a. Representing to John that Rider would follow the Policy and The Source, which were provided to John by University officials and are available on Rider's website, both in those documents themselves and by University officials repeatedly and throughout the process, including: by Dean Campbell on or about October 18, 2015 while John remained on campus; by Dean Campbell in an October 19, 2015 letter sent to John's home; by Keith Kemo in a November 24, 2015 letter sent to John's home; by Mr. Kemo at the December 1, 2015 pre-hearing conference held on campus attended by Mr. Kemo, John, John's parents, and his attorney; and in the December 8, 2015 notice of the Board's decision.
- b. Causing John to believe through the above representations that if he paid tuition and fees to Rider, that Rider would uphold its obligations, covenants, and warranties to John described in the Policy and The Source.

145. Based on the foregoing facts and circumstances, Rider engaged in unfair and/or deceptive trade practices in violation of New Jersey's Consumer Fraud Act.

146. As a direct, proximate, and foreseeable consequence of the University's deceptive acts and practices, John sustained significant damages, including, without limitation, emotional distress, physical distress, loss of educational and athletic opportunities, economic injuries, and other direct and consequential damages.

147. As a result of the foregoing, John is entitled to damages in an amount to be determined at trial, plus prejudgment interest, attorneys' fees, expenses, costs, and disbursements.

COUNT IV
(Promissory Estoppel and Reliance)

148. John repeats and alleges each and every allegation hereinabove as if fully set forth herein.

149. Rider's Policy, The Source, and the University's statements and representations referenced above constitute representations and promises that Rider should have reasonably expected to induce action or forbearance by John.

150. Rider expected or should have expected John to accept its offer of admission, incur tuition and fee expenses, and choose not to attend other colleges or universities based on its express and implied promises that Rider would not tolerate, and John would not suffer from, a denial of his procedural rights should he be accused of a violation of the Policy.

151. John relied to his detriment on these express and implied promises and representations made by Rider.

152. Based on the foregoing, Rider is liable to John based on Estoppel.

153. As a direct, proximate, and foreseeable consequence of the above conduct, John sustained significant damages, including, without limitation, emotional distress, physical distress, loss of educational and athletic opportunities, economic injuries, and other direct and consequential damages.

154. As a result of the foregoing, John is entitled to damages in an amount to be determined at trial, plus prejudgment interest, attorneys' fees, expenses, costs, and disbursements.

COUNT V**(Violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.*)**

155. Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688, provides in relevant part that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a).

156. Title IX applies to all public and private educational institutions that receive federal funds, including colleges and universities. Rider is a recipient of federal funds and, therefore, is bound by Title IX and its regulations.

157. Rider discriminated against John and deprived him of the benefits of its education program through its discriminatory, gender-biased implementation of its disciplinary process and by expelling him as a result of that process.

158. Under Title IX, schools must “[a]dopt and publish grievance procedures providing for the *prompt and equitable resolution of student . . . complaints* alleging any action which would be prohibited by [Title IX or its regulations].” 34 C.F.R. § 106.8(b) (emphasis added). Both the Department of Education and Department of Justice have set forth this requirement by way of regulation. *See* 34 C.F.R. § 106.8(b) (Dep’t of Education); 28 C.F.R. § 54.135(b) (Dep’t of Justice).

159. In 2001, the Office for Civil Rights (“OCR”) of the Department of Education, the office that administratively enforces Title IX, promulgated regulations pursuant to notice-and-comment rulemaking in a document entitled “Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties” (“2001 Guidance”) (<https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>). Title IX’s

regulations, including the 2001 Guidance, have the force and effect of law, because they affect individual rights and obligations and were the product of notice-and-comment rulemaking.

160. OCR's 2001 Guidance "identified a number of elements in evaluating whether a school's grievance procedures are prompt and equitable. . . ." (*Id.* at 20). These elements apply to private and public colleges and universities and include:

- "Notice to students . . . of the [school's] procedure;"
- "Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;" and
- "Designated and reasonably prompt timeframes for the major stages of the complaint process."

(*Id.*).

161. OCR's 2001 Guidance further stated that "***[a]ccording due process to both parties involved, will lead to sound and supportable decisions.***" (*Id.* at 22) (emphasis added). Title IX's "due process" requirement applies to both state and private colleges and universities. (*Id.* at 2, 22).

162. On April 4, 2011, the OCR issued a "significant guidance document" commonly referred to as the "Dear Colleague Letter." (*Letter from Russlynn Ali, Assistant Sec'y for Civil Rights, U.S. Dep't of Educ., Office for Civil Rights* (Apr. 4, 2011) at n. 1, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf> (hereinafter "2011 Dear Colleague Letter")).

163. The 2011 Dear Colleague Letter reaffirmed in principal that both accusers and accused have the right to have a prompt and equitable resolution, including the right to an

adequate, reliable, and impartial investigation; similar and timely access to any information that will be used at the hearing; and adequately trained factfinders and decision makers. (*Id.* at 9-11).

164. The 2011 Dear Colleague Letter also, however, stated that schools “must use a preponderance of the evidence standard (*i.e.*, it is more likely than not that sexual harassment or violence occurred),” and must not use the “clear and convincing standard (*i.e.*, it is highly probable or reasonably certain that the sexual harassment or violence occurred.)” *Id.*

165. Even though the 2011 Dear Colleague Letter merely offers guidance, OCR nevertheless, framed the use of the preponderance of the evidence standard as a mandatory requirement.

166. Moreover, the 2011 Dear Colleague Letter contained an explicit threat to colleges and universities: “When a recipient does not come into compliance voluntarily, OCR may initiate proceedings to withdraw Federal funding by the Department or refer the case to the U.S. Department of Justice for litigation.” *Id.* at 16.

167. This portion of the 2011 Dear Colleague Letter has been described as the “first warning shot” that OCR intended to punish any school that failed to handle sexual assault proceedings as OCR wanted. (*See How Sexual Assaults Came to Command New Attention*, NPR (Aug. 13, 2014), <https://www.npr.org/2014/08/12/339822696/how-campus-sexual-assaults-came-to-command-new-attention>).

168. In January 2014, the White House put further pressure on colleges and universities to prevent and police sexual violence on their campuses by creating a task force of senior administration officials to coordinate Federal enforcement efforts.

169. The Task Force’s first report, dated April 2014, explicitly focused on protection of women and girls, and pressed colleges and universities to provide “[t]rauma-informed

training” for their officials, stating that “when survivors are treated with care and wisdom, they start trusting the system, and the strength of their accounts can better hold offenders accountable.” (*Not Alone: The First Report of the White House Task Force to Protect Students From Sexual Assault*, <https://www.justice.gov/ovw/page/file/905942/download>).

170. In February 2014, Catherine E. Lhamon, then the Assistant Secretary of Education and head of OCR, told college officials attending a conference at the University of Virginia that schools needed to make “radical” changes.

171. According to the Chronicle of Higher Education, college presidents suggested afterward that there were “crisp marching orders from Washington.” (*See Colleges Are Reminded of Federal Eye on Handling of Sexual-Assault Cases*, Chronicle of Higher Education (Feb. 11, 2014), <https://www.chronicle.com/article/Colleges-Are-Reminded-of/144703>).

172. On May 1, 2014, as part of its aggressive enforcement policies following the issuance of the 2011 Dear Colleague Letter, OCR published a complete list of 55 higher education institutions nationwide that were then under investigation for possible Title IX violations.

173. Numerous groups and organizations have spoken out against the legal and financial pressure exerted by OCR to force colleges and universities to find accused students (who are overwhelmingly male) responsible, in spite of the evidence or the lack of evidence. (*See, e.g.*, Foundation for Individual Freedom in Higher Education (FIRE), Stop Abusive and Violent Environments (SAVE), Families Advocating for Campus Equality (FACE), and prominent Harvard and University of Pennsylvania Law School faculty members asserting that OCR’s new rules violate the due process rights of the accused).

174. Title IX bars the imposition of university discipline where gender is a motivating factor.

175. Both on their face and as applied in this case, Rider's policies and procedures for handling allegations of sexual misconduct violate Title IX. Rider engaged in selective enforcement, reached an erroneous outcome, and acted with deliberate indifference, all based on John's gender.

176. In the context of sexual assault cases, Rider's deficient policies and procedures are deliberately designed to subject male students as a group to less favorable treatment than female students, because accused students in sexual assault cases are overwhelmingly male and the policies and procedures on their face and as applied intentionally accord unequal treatment to the accused.

177. Rider's policies and procedures are deliberately designed to favor the female accuser and disfavor the male accused by, among other things, eliminating the most fundamental procedural safeguards for the accused, including but not limited to adequate notice of the charges and their alleged factual basis, adequate notice of the basis for findings, and access to relevant evidence.

178. Information concerning sexual misconduct complaints at Rider and the outcome of disciplinary proceedings involving male students as compared to female students is in Rider's exclusive possession and control. On information and belief, statistics within Rider's exclusive possession and control will show a pattern of intentional discriminatory conduct and selective enforcement based on gender—precisely what happened here, when the University investigated and charge Joe Doe and John Doe because they are males, but refused to investigate and prosecute Jane Roe 2 because she is a female

179. On information and belief, statistics within Rider's exclusive possession and control will show that students accused of sexual misconduct are overwhelmingly, if not invariably, male, and that male students accused of sexual misconduct are overwhelmingly, if not invariably, found responsible.

180. Rider's adoption of its policies and procedures and its application of them in John's case was in response to pressure from the federal government, the public, and members of the Rider community to take campus sexual assault more seriously, provide more protection to purported victims, and crack down on purported offenders.

181. In addition to the pressure that has been applied to colleges and universities generally since the 2011 Dear Colleague Letter, Rider has been subjected to specific pressure and criticism regarding its handling of sexual assault, and Rider officials have acknowledged that the concern for protecting "victims" of sexual assault arises out of and focuses on concern for women.

182. In an October 22, 2014 article in *Rider News*, a New Jersey lawmaker and Rider's associate vice president for planning, who was "leading the university's efforts to update sexual assault policies," were interviewed in connection with New Jersey legislative proposals addressing campus sexual assault. In response to a bill that would require a victim advocate, Rider's representative stated that "'victim advocacy is an important component of any support system'" and that Rider "work[s] collaboratively with local organizations such as Womanspace, which is known throughout Mercer County for providing victim-centered services to women who are victims of sexual and domestic violence." The lawmaker explicitly affirmed the underlying theme: "'Let's face it, men are the perpetrators more often than not,' he said." (*New*

Jersey Bills Take Aim at Sexual Assault on Campuses, *Rider News* (Oct. 22, 2014), http://www.theridernews.com/wp-content/uploads/2014/10/102214_optimizedRIGHT.pdf).

183. In November 2014, Dean Campbell was part of a Rider University rally seeking to end sexual violence on college campuses. “During the rally, Campbell announced the launch of the Rider Men’s Project, which aims to prevent any personal violence or abuse within the community by exploring the male identity through education and mentoring.” Other participants emphasized “meet[ing] the needs of survivors.” (*Standing Up for Survivors of Sexual Assault*, *Rider News* (Nov. 18, 2014), <http://www.theridernews.com/2014/11/18/standing-up-for-survivors-of-sexual-assault/>).

184. An article published in *The Star-Ledger* in December 2014 stated that “sex assaults reported to New Jersey colleges and universities hit a ten-year high last year, amid growing scrutiny into sexual violence on campuses nationwide. . . . Earlier this year, 55 universities and colleges came under investigation by the U.S. Department of Education over the handling of sexual violence and harassment complaints.” The article focused on sexual assault claims by women as victims, citing purported “research showing as many as one in four women saying they were sexually assaulted while at college.” Rider was referenced and was reported as having 38 reported “forcible sex offenses” over two campuses between 2004 and 2013. (*Number of Sexual Assault Cases at N.J. Campuses Continues to Rise*, *NJ.com* (Dec. 4, 2015), http://www.nj.com/news/index.ssf/2014/12/sex_assault_reports_on_nj_campuses_on_the_rise.html).

185. In October 2015, three reported incidents of sexual assaults at Rider (including John’s case) made the news: *Bail Reduced for N.J. Man Accused of Groping Sleeping Women at Rider Univ.*, *NJ.com* (Oct. 13, 2015),

http://www.nj.com/mercer/index.ssf/2015/10/hearing_held_for_nj_man_accused_of_groping_slepin.html; *Authorities Investigating Sex Assault at Rider Dormitory*, NJ.com (Oct. 19, 2015), http://www.nj.com/mercer/index.ssf/2015/10/authorities_investigating_sex_assault_at_rider_dor.html; *Rider University Investigates 2nd Sexual Assault in Month*, NJ.com (Nov. 9, 2015), http://www.nj.com/mercer/index.ssf/2015/11/rider_university_investigates_2nd_sexual_assault_i.html.

186. An article published on October 30, 2015 stated that the recent alleged incidents at Rider and elsewhere had spurred New Jersey lawmakers to propose legislative investigation and action, and that “school officials and legislators seek ways to ensure greater prevention and protection for victims Currently, New Jersey universities follow different procedures for complaints, including how they *pursue the accused and provide care for victims*.” (*N.J. Task Force Study Campus Sexual Assaults*, *Philly Voice* (Oct. 30, 2015), <http://www.phillyvoice.com/nj-task-force-study-campus-sexual-assaults-christie/> (emphasis added)).

187. An October 26, 2015 article by a Rider University student confirmed again that the concern for purported victims of sexual assault focuses on concern for women, and complained that universities do not want publicity around sexual assault “simply because it will bring upon a bad name to the university.” The article included the following:

- It’s not the victims fault.

Emphasize that “no” *means* “no.” Anything that is not a “yes,” is a “no.” [citing purported statistics about women and sexual assault].

- What more universities need to do:

Security Cameras. . . . A parent of a student who attends Rider University said, “When students come to school they come to learn, and many times, make the university their new home. We pay for our children to be safe and out of harm’s way. We want them to

enjoy their college years. It is very disheartening that our children, our girls specifically, have to live in fear.”

- How to move forward:

As females, we attend college to further our education. The fact that we are more likely to be targeted and assaulted is not our fault. Young women in college need to know it is not wrong to report sexual assaults. ***You should always report sexual assaults.*** Being raped or sexually assaulted is not something to be embarrassed of having gone through. The culprit responsible must receive sanctions for his or her wrongdoings. Without reporting, the perpetrators will continue to hurt and abuse others.

Campus security should be concerned with the wellbeing of the thousands of students that attend the university. It seems that getting a bad reputation and the words “campus rape” attached to the name of a university in a headline is more feared than what potential uncaught offender is capable of doing next. Negative publicity should be the least of a university’s worry. Safety comes first. Report it.

(The Growing Sexual Assault Campus Crisis, Odyssey Online (Oct. 26, 2015),

<https://www.theodysseyonline.com/the-growing-sexual-assault-campus-crisis>) (emphasis original).

188. Given the environment, the publicized reports of multiple assaults, and the number of universities already under federal investigation, Rider knew in late 2015, when it was handling the complaints against John Doe and Joe Doe, that the prospect of federal investigation was very real, particularly if it did not protect the purported victims and punish the purported offenders.

189. And, in fact, a federal investigation shortly did ensue. In April 2016, “the federal Department of Education opened an investigation into how Rider handles sexual assault and harrassment [sic] complaints The investigation follows reports of at least two unrelated sexual assaults in Rider dormitories last fall and the arrest of a Hamilton man who allegedly touched two other women as they slept in a Rider dorm in September.” (*Feds Probe N.J. College after Sex Assault Complaints*, NJ.com (Apr. 19, 2016),

http://www.nj.com/education/2016/04/feds_investigating_rider_college_after_string_of_sex.htm 1).

190. In September 2017, the US Department of Education took first steps toward restoring procedures that would provide basic fairness to both accusing and accused students in Title IX proceedings.

191. Recognizing the harmful results of the 2011 Dear Colleague Letter, Secretary of Education Betsy DeVos observed that “[n]o school or university should deprive any student of his or her ability to pursue their education because the school fears shaming by—or loss of funding from—Washington,” that “no student should be forced to sue their way to due process,” and that “[o]ne person denied due process is one too many.” (*See Secretary DeVos Prepared Remarks on Title IX Enforcement*, <https://www.ed.gov/news/speeches/secretary-devos-prepared-remarks-title-ix-enforcement>). Stating that “the era of ‘rule by letter’ is over” and that “[t]here must be a better way forward,” the Secretary announced that the Department of Education would “launch a transparent notice-and-comment process to incorporate the insights of all parties” in an effort “to ensure that America’s schools employ clear, equitable, just, and fair procedures that inspire trust and confidence.” (*Id.*)

192. Then, on September 22, 2017, the Department of Education announced that it was withdrawing the 2011 Dear Colleague Letter and the 2014 Questions & Answers, noting in part the criticism of those documents for placing “improper pressure upon universities to adopt procedures that do not afford fundamental fairness” and are “overwhelmingly stacked against the accused.” (*See September 22, 2017 Dear Colleague Letter*, <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-title-ix-201709.pdf>, at 1).

193. The new guidance from the Department of Education reflects a return to the original principles of Title IX, stating that an “equitable investigation of a Title IX complaint requires a trained investigator to analyze and document the available evidence to support reliable decisions, objectively evaluate the credibility of parties and witnesses, synthesize all available evidence—including both inculpatory and exculpatory evidence—and take into account the unique and complex circumstances of each case.” (*See September 2017 Q&A on Campus Sexual Misconduct*, <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>, at 4).

194. When asked about the DOE’s changes, however, Rider officials said Rider’s policy would not change. A *Rider News* article noted that Secretary DeVos had “called for a better balance between protecting the rights of both victims and accused students.” In response to the DOE’s position, Rider’s Prevention Education Coordinator “said she shares the concerns of other college administrators across the country that DeVos might lean toward a more lenient system for accused students. . . . ‘As always, I believe in supporting anyone willing to come forward and share their victimization . . . No victim blaming is ever appropriate or deserved.’” A Rider student who was interviewed said that “[t]he fact that [DeVos] is focusing on the rights of the accused is demonstrating a lack of empathy. Innocent victims who didn’t ask for sexual assault need to be taken into account.” (*Colleges Concerned over Potential Title IX Changes*, *Rider News* (Sept. 20, 2017), <http://www.theridernews.com/2017/09/20/colleges-concerned-over-potential-title-ix-changes/>). The same Rider coordinator interviewed for that article was interviewed in 2014, where she focused on statistics involving sexual assault of women. (*See AR Project: Sexual Violence* (Apr. 22, 2014), <https://adodson423.wordpress.com/2014/04/22/interview-with-susan-stahley-substance-abuse-sexual-assault-education-coordinator-at-rider-university/>).

195. Rider's bias against males and in favor of females is further demonstrated by its handling of the encounter between Jane Roe 2 and Joe Doe and by its failure, contrary to its own Policy, to investigate whether Jane Roe 2 had violated its Policy by engaging in sexual contact with Joe Doe when he was incapacitated by alcohol consumption.

196. Rider violated Title IX and demonstrated its gender bias against male students accused of sexual assault by, among other things:

- a. Suspending John without conducting an adequate, reliable, and impartial investigation of Jane Roe's complaint, thereby presuming his guilt from the start of the disciplinary proceeding;
- b. Imposing and continuing John's interim suspension through a process that did not allow independent review of the initial decision to suspend, and with no basis for concluding that he posed a threat to health or safety;
- c. Pre-judging John's guilt and pre-determining the finding of "responsible" from the start of the process with the pronouncement by Dean Campbell that he was "going against" John immediately after the complaint was made;
- d. Conducting an investigation that was neither fair nor impartial, and failing to explore in its investigation the inconsistencies in the several statements given by Jane Roe and Jane Roe 2, thereby giving more favorable treatment to the female complainant and her witnesses;
- e. Giving John no right to appeal the University's decision to conduct a formal adjudication even though there was no objective evidence that a sexual assault occurred, the statements of Jane Roe and Jane Roe 2 were

contradictory, and complainants are permitted to appeal if the University decides not to proceed with a formal adjudication (*see* Ex. A at 19);

- f. Failing to give John proper notice of the charges against him or the factual basis for those charges, failing to provide the bases for a finding of responsibility and sanction, and/or failing to provide in its procedures for adequate notice of charges or the bases for decisions;
- g. Failing to convene an impartial and unbiased hearing Board free from conflicts of interest;
- h. Misinterpreting and applying the wrong standard of incapacitation as it relates to consent under the Policy;
- i. Creating a Title IX disciplinary process replete with due process flaws, which encouraged administrators to believe the accuser over the accused;
- j. Conducting an unfair hearing process, allowing the female complainant to present medical evidence not previously shared with John or the Board Chair prior to the hearing, and contrary to the Policy, not allowing John to rebut the medical “evidence” submitted by the female complainant, treating the female complainant and her witnesses more favorably during the hearing, and refusing to adequately question Jane Roe and her witnesses about inconsistencies in their statements;
- k. Reaching a finding of responsibility that was erroneous and was not supported by a preponderance of the evidence;
- l. Imposing a sanction that was not fair or proportionate to the alleged violation;

- m. Failing to train its officials to handle sexual assault allegations fairly and impartially, and, on information and belief, training them instead to ignore the due process rights of the accused and focus on “victim assistance and support.” (*See, e.g., Rider guidelines on sexual assault, <https://www.rider.edu/student-life/health-wellness/counseling-services/sexual-assault#support>; see also <http://www.rider.edu/student-life/health-wellness/counseling-services/sexual-assault>; <http://drcastagnera.blogspot.com/>*).
- n. Attacking and pressuring officials, including a member of John’s appellate panel, who criticized the due process flaws in the University’s Policy and procedures for handling complaints of sexual assault; and
- o. Failing to provide John with copies of the audio recordings of the disciplinary hearing to which he was entitled.

197. The outcome of Rider’s flawed proceeding against John was clearly erroneous, and was motivated on the basis of sex. The University was on notice of, and was deliberately indifferent to, the serious flaws in the investigation and hearing process, the lack of equity and fairness, and the gender bias that infected the process. Rider’s implementation of the Policy is motivated by and premised on archaic assumptions and stereotypical notions of the sexual behavior of male and female students—*i.e.*, male students are perceived as sexual aggressors and perpetrators and female students are perceived as sexual victims. The University’s conduct was so severe, pervasive, and objectively offensive that it denied John equal access to education that Title IX is designed to protect.

198. As a direct, proximate, and foreseeable consequence of Rider's aforementioned Title IX violations, John has a gap in his education and a finding in his record that brands him a sexual predator. John will forever have to explain this gap in his record and the disciplinary findings to potential colleges and future employers. Further, Rider's biased process and the erroneous outcome will adversely affect John's academic and career prospects, earning potential, and reputation. He has sustained significant damages, including but not limited to, severe emotional distress, damages to his physical well-being, emotional and psychological damages, damages to his reputation, past and future economic losses, loss of educational, athletic, and professional opportunities, loss of future career prospects, and other direct and consequential damages.

199. As a result of the foregoing, John is entitled to injunctive relief and damages in an amount to be determined at trial, plus prejudgment interest, attorneys' fees, expenses, costs, and disbursements.

COUNT VI
(Declaratory Judgment)

200. John repeats and alleges each and every allegation hereinabove as if fully set forth herein.

201. Rider has committed numerous violations of its contracts and of federal and state law.

202. John's education and future career prospects have been severely damaged. Without appropriate redress, the record of Jane Roe's false complaint will continue to cause irreversible damages to John, with no end in sight.

203. As a result of the foregoing, there exists a justiciable controversy between the parties with respect to the outcome, permanency, and future handling of John's academic and disciplinary records at Rider.

204. By reason of the foregoing, John requests, pursuant to 28 U.S.C. § 2201, a declaration that: (i) John's disciplinary and academic records be expunged of any and all adverse findings related to the flawed disciplinary proceeding at Rider; and (ii) any record of Jane Roe's false complaint be permanently destroyed.

PRAYER FOR RELIEF

WHEREFORE, for the foregoing reasons, John Doe respectfully requests that this Honorable Court:

- a. Order Rider University to reverse and expunge its findings of responsibility and sanction of expulsion from John's education record;
- b. Order Rider to provide a Dean's Certification that shall be made available to third parties (such as educational institutions and prospective employers) certifying that Rider has reversed and expunged the findings and sanction;
- c. Award John compensatory and punitive damages in an amount to be determined at trial, including without limitation, damages to John's physical well-being, emotional and psychological damages, damages to John's reputation, past and future economic losses, loss of education, athletic, and professional opportunities, loss of future career prospects, and other direct and consequential damages;
- d. Award prejudgment interest;
- e. Award attorneys' fees and costs pursuant to statutory or common law doctrines providing for such award; and
- f. Grant such other and further relief that the Court deems just and proper.

s/ Lee Vartan

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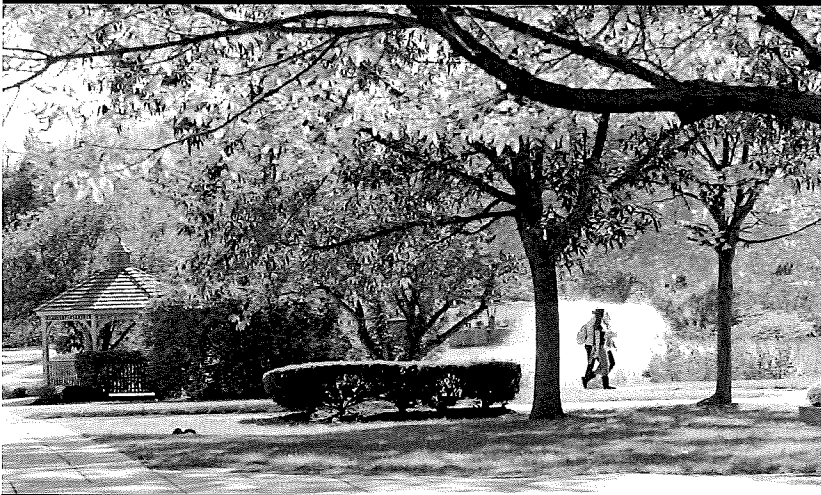
Date: February 16, 2018



RIDER
UNIVERSITY

Anti-Harassment and Non-Discrimination Policy

SEPTEMBER 2015



Title IX / Discrimination / Harassment /
Sexual Assault / Sexual Misconduct /
Sexual Harassment / Domestic Violence /
Dating Violence / Stalking

Notice of the Title IX Coordinator

As a community of educators and learners, Rider University is committed to fostering an environment dedicated to learning and mutual respect as reflected in the University's mission, Statement of Community Values, Anti-Harassment and Non-Discrimination Policy and Title IX. All students, faculty, administrators and staff at the University have the right to expect an environment that allows them to enjoy the full benefits of their work or learning experience. The University, therefore, does not condone violations of its Anti-Harassment and Non-Discrimination Policy and treats all allegations about violations very seriously. As outlined in the Anti-Harassment and Non-Discrimination Policy, the University prohibits all forms of discrimination, harassment, sexual assault, sexual misconduct, sexual harassment, dating violence, domestic violence and stalking.

Rider University is an Equal Opportunity and Affirmative Action Employer. No one will be denied employment at, admission to, or the opportunity to participate in educational programs and activities at the University on the basis of race, creed, color, religion, handicap/disability, gender, age, marital status, sexual orientation, gender identity, national origin, ethnicity, status as a Vietnam-era qualified disabled veteran or other protected veteran, or status as a member of any other protected class under federal or state law. The University does not discriminate on the basis of any of the aforementioned protected bases in the recruitment and admission of students, the recruitment and employment of faculty, administrators and staff, and the operation of any of its programs and activities.

The Associate Vice President for Human Resources serves as both the Affirmative Action Officer and the Title IX Coordinator for the University, and is the resource available to anyone seeking additional information or wishing to file a complaint related to Affirmative Action and discrimination on the basis of race, creed, color, religion, handicap/disability, gender, age, marital status, sexual orientation, gender identity, national origin, ethnicity, status as a Vietnam-era, qualified disabled veteran or other protected veteran, or status as a member of any other protected class under federal or state law.

The Affirmative Action Officer and the Title IX Coordinator for the University may be contacted as follows:

Robert Stoto
**Associate Vice President for Human Resources/
Title IX Coordinator and Affirmative Action Officer**
Moore Library, Room 108
(609) 895-5683
rstoto@rider.edu

Sexual Harassment is defined as unwelcome sexual advances (including, but not limited to, sexual assault and sexual misconduct), requests for sexual favors, and/or physical, verbal or written conduct of a sexual nature when:

- In the educational setting within the University, as distinct from other work places within the University, wide latitude for professional judgment in determining the appropriate content and presentation of academic material is required. Conduct, including pedagogical techniques, that serves a legitimate educational purpose does not constitute sexual harassment. Those participating in the educational setting bear a responsibility to balance their rights of free expression with a consideration of the reasonable sensitivities of other participants.

Supplemental Definitions

These supplemental definitions are more likely to be relevant in harassment and discrimination cases involving alleged student misconduct, but also will be utilized in cases where employee or third party misconduct is alleged, when appropriate. These supplemental definitions will be used during the Formal Hearing stage to determine charges and sanctions.

Advisor is a person chosen by each of the complainant and respondent who is permitted to accompany the complainant and respondent respectively to any hearing and/or any related meetings. The advisor is not permitted to be an active participant in the hearing or any related meetings.

Complainant is anyone who submits a charge alleging that an individual violated the Policy and/or anyone who is alleged to have been the subject of a violation of the Policy. Oftentimes the individual submitting the charge and the individual who is the subject of the violation are the same. In instances where the subject of the violation is different from the individual submitting the charge, both individuals will have the same rights afforded to the complainant under the Policy.

Respondent is anyone who is alleged to have violated the Policy.

Third Party is anyone who is not a student or employee of the University.

Consent is an understandable exchange of affirmative words or actions that indicate a willingness to participate in mutually agreed upon sexually explicit touching or sexual penetration. Consent is active, not passive, and must be informed and freely and actively given. Coercion, force or threat of coercion or force invalidates consent.

It is incumbent upon each individual involved in the activity to either obtain or give consent prior to any sexual activity, and again, prior to sexual penetration. If at any time during the sexual interaction any confusion or ambiguity should arise on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify, verbally, the other's willingness to continue.

- A verbal "no," even if it may sound indecisive or insincere, constitutes lack of consent.
- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent.
- Consent can be withdrawn at any time. But it is expected that, after consent has been established, a person who changes their mind during the sexual activity will communicate through words or actions, their decision to no longer proceed.
- Past consent to sexual activity does not imply future ongoing consent, and the fact that two persons reside together or are in an on-going relationship does not preclude the possibility that sexual misconduct or sexual assault might occur within that relationship.

Robert Stoto
Associate Vice President for Human Resources/Title IX Coordinator
Moore Library, Room 108
(609) 895-5683
rstoto@rider.edu

The Title IX Coordinator (or designee) will notify the relevant vice-president/division head and the president of the union (if the respondent is a bargaining unit member) as soon as possible after receiving the complaint and provide the complainant, respondent, the relevant vice-president/division head and the union president (when appropriate) with a copy of the complaint and this Policy.

Reporting Complaints of Student Violations of the Policy

Complaints alleging that a student violated the Policy, whether made by an employee, student or a third party, should be reported to the Associate Vice President for Human Resources who is the University's Title IX Coordinator, Affirmative Action Officer, and the designated coordinator for compliance with this Policy.

Robert Stoto
Associate Vice President for Human Resources/Title IX Coordinator
Moore Library, Room 108
(609) 895-5683
rstoto@rider.edu

Alternatively, complaints may be reported to the Associate Vice President for Student Affairs, the Department of Public Safety, or anonymously as follows:

Anthony Campbell, Ph.D.
Associate Vice President for Student Affairs and Dean of Students
Bart Luedeke Center, Room 110
(609) 896-5101
acampbel@rider.edu

Department of Public Safety
West House, Lawrenceville campus
Bristol Chapel, Princeton campus
Both campuses: (609) 896-5029 (non-emergency)
(609) 896-7777 (emergency)

Silent Witness Form (anonymous reporting) is available via Rider's Web site at www.rider.edu/info/publicsafety/witness.htm

For all matters involving students, the Department of Public Safety prepares written documentation that serves as the complaint and sets forth the allegations concerning the Policy violation.

Responsible Employees

Responsible employees are University employees who have the authority to redress sexual violence, who have the duty to promptly report incidents of sexual violence or other student misconduct, or who a student could reasonably believe have this authority or duty. When a complainant tells a responsible employee about an alleged violation of the Policy, the responsible employee shall report the incident to the Title IX Coordinator, who shall take immediate and appropriate steps to investigate what happened and to resolve the matter promptly, fairly and impartially.

To the extent possible, information reported to responsible employees will be shared only with people responsible for handling the University's response to the report.

Responsible employees will not pressure a complainant to request confidentiality and will not pressure a complainant to make a full report if the complainant is not ready to do so.

All Rider University employees (faculty, administrators and staff) are considered responsible employees EXCEPT for those listed below. Responsible employees also include students who are employed by Residential Programs as Resident Advisors, House Managers, Resident Directors and House Directors.

- Counseling Center, Chaplain Center and Student Health Center professional and non-professional staff (to whom a complainant can report confidentially). The Prevention Education Coordinator (ASAP), who works in the Student Health Center, is not included in this exemption.
- Facilities (non-management) staff
- Aramark (food services), DTZ (custodial), Barnes and Noble (bookstore), University Athletic Management (SRC Fitness Center) and Collegiate Press staff are NOT Rider employees and are therefore NOT considered responsible employees.

Requesting Confidentiality from the University

If a complainant discloses an incident to the Title IX Coordinator, Associate Vice President for Student Affairs, the Department of Public Safety or a responsible employee but also wants to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action be taken, the University will weigh that request against its obligation to provide a safe, non-discriminatory environment for all students, faculty and staff, including the complainant. The Title IX Coordinator (or designee) is responsible for evaluating requests for confidentiality.

If the University honors the request for confidentiality, a complainant must understand that the University's ability to meaningfully investigate the allegation and pursue disciplinary action against the respondent may be limited. Additionally, the level of appropriate action the University can take in response to the allegation depends on the complainant's participation in the process.

There may be times, however, when the University may not be able to honor a complainant's request for confidentiality in order to provide a safe, non-discriminatory environment for all students, faculty and staff. Factors that will be considered when weighing such requests include, but are not limited to, the following: the increased risk that the respondent will commit additional acts of sexual or other violence; whether a weapon is involved; whether the complainant is a minor; whether the complainant's report reveals a pattern of perpetration by the respondent; and whether the University has other means to obtain relevant evidence (security cameras, physical evidence, etc.). The presence of one or more of these factors could lead the University to investigate and, if appropriate to pursue disciplinary action.

If the Title IX Coordinator (or designee) determines that the complainant's confidentiality cannot be maintained, the Title IX Coordinator (or designee) will inform the complainant prior to starting an investigation and will, to the extent possible, share information only with people responsible for handling the University's response.

Additionally, if the University determines that the respondent poses a serious and immediate threat to the University community, it will issue a timely warning. A timely warning, communicated via email, RiderAlert, website, and/or building signage, is used to notify the University community of crimes committed on campus or in the surrounding area. Any such warning will not include any information that identifies the complainant.

Victim Assistance and Support

If You Are a Victim of Sexual, Domestic or Dating Violence: Getting Help as Soon as Possible

The University encourages victims of sexual, domestic and/or dating violence to talk to someone about what happened so that victims can get the support they need and the University can respond appropriately. Students have the right to simultaneously file a criminal complaint and a complaint to the University under this Policy.

Victims of sexual, domestic or dating violence are encouraged to seek medical attention and preserve evidence that may assist in proving that the alleged violation occurred (i.e. do not bathe, shower or change clothes) regardless of whether or not a victim decides to pursue criminal prosecution at any point. Other evidence that should be preserved includes text and email messages, bedding and clothing.

In the case of sexual violence, a sexual assault response team (SART) will be activated by the hospital should a victim seek medical attention and/or wish to have evidence collected. A specially trained sexual assault nurse examiner (SANE) will respond as part of the team to perform the examination. The evidence will be secured whether or not a victim decides to pursue criminal prosecution. If a victim chooses not to pursue criminal prosecution, the evidence will not be tested and will be held for at least five (5) years as per NJ State Attorney General directive. A sexual assault care advocate will be available to assist a victim through the process.

University Assistance

A complainant can expect the following assistance from the University when an allegation of a policy violation is made, whether the alleged violation occurred on or off campus. The University will:

- Provide a written explanation regarding the complainant's rights and options as outlined in the Campus Sexual Assault Victim's Bill of Rights (provided at the end of this booklet), the Anti-Harassment and Non-Discrimination Policy and related procedures.
- Provide or assist in obtaining University and/or community-based services for health, mental health, legal, emotional and other support (see back pages for contact information).
- Provide notification about and assistance with protective measures and/or options for accommodations/changes to academic, living, transportation or work situations (see "Protective Measures and Accommodations" section that follows), provided that reasonable alternatives are available, regardless of whether the complainant chooses to report the alleged incident to the University or law enforcement authorities. This includes student financial aid information related to withdrawing from a class or the University, loan repayment terms and other related information.
- Provide information about options regarding reporting the incident to law enforcement and/or University authorities, including that the complainant can decline to notify such authorities, but that the University will support a complainant, if the complainant chooses, to proceed through the University disciplinary proceedings and/or with filing a complaint with law enforcement authorities and/or pursuing with law enforcement authorities orders of protection, restraining orders or similar lawful orders.
- Provide information about how the University will protect the complainant's confidentiality, to the extent permissible by law, including how the University will meet its public record-keeping obligation regarding the incident without disclosing personally identifying information about the complainant.

The ultimate decision regarding whether the complainant wants to proceed with health, mental health, legal and/or counseling services belongs to the complainant. Complainants are free from any pressure from University personnel to report an incident to law enforcement authorities if they do not wish to do so, report an incident as a lesser offense than a complainant perceives the crime to be, refrain from reporting an incident, and/or refrain from reporting an incident to avoid unwanted personal publicity.

Protective Measures and Accommodations

The Title IX Coordinator and/or the Associate Vice President for Student Affairs (or designee) has the authority to take all reasonable and prudent measures to protect the complainant, the respondent, and all third party witnesses pending completion of any of the procedures outlined in the Policy.

Protective measures and accommodations may include, where reasonably available,

- administrative directives (i.e. no contact orders – see paragraph below)
- interim suspensions
- changes to housing, transportation, dining facilities, work schedules, academic schedules
- withdrawal or retaking of a class without penalty
- access to academic support such as tutoring
- a delay/suspension in the awarding of a degree and/or certifying graduation

The University will maintain as confidential any protective measures or accommodations provided to the complainant, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the protective measures or accommodations. The University will notify the complainant in advance if personally identifying information about the complainant is necessary to obtain an accommodation or protective measure.

Students may request protective measures and/or accommodations by contacting:

Anthony Campbell, Ph.D.
Associate Vice President for Student Affairs and Dean of Students
Bart Luedeke Center, Room 110
(609) 896-5101
acampbel@rider.edu

Department of Public Safety
West House, Lawrenceville campus
Bristol Chapel, Princeton campus
Both campuses: (609) 896-5029 (non-emergency)
(609) 896-7777 (emergency)

Employees may request interim protective measures and/or accommodations by contacting:

Robert Stoto
Associate Vice President for Human Resources/Title IX Coordinator
Moore Library, Room 108
(609) 895-5683
rstoto@rider.edu

In incidents involving students, the Associate Vice President for Student Affairs (or designee) may issue an administrative directive in the form of a no-contact order if deemed appropriate. The no-contact order may include a directive that the complainant and respondent refrain from contacting each other through direct, indirect, electronic or other means or engage in any disruptive conduct pending resolution of the complaint. The Associate Vice President for Student Affairs (or designee) may also take any further protective action he deems appropriate, in his sole discretion, concerning the interaction of the complainant

and respondent pending resolution of the complaint. Violation(s) of the orders, directives, and/or protective actions of the Associate Vice President for Student Affairs (or designee) shall constitute related offenses as outlined in the Student Code of Conduct.

Investigating and Resolving Complaints of Employee Violations of the Policy

The University offers both informal and formal procedures for promptly, fairly and impartially investigating and resolving complaints of employee violations of the Policy. Informal and formal procedures will be initiated as soon as possible and within five (5) calendar days of the filing of the complaint, absent any unusual circumstances.

Depending on the nature of the complaint, the Title IX Coordinator (or designee) will either assign a mediator or investigator as described below. The Title IX Coordinator (or designee) will notify the respondent that a complaint has been filed against them and provide the respondent a copy of the complaint. The Title IX Coordinator (or designee) will explain to both the complainant and respondent the avenues for informal and formal action as appropriate, including a description of the process and the relevant avenues of redress to the complainant and respondent and provide them a written summary of the process. The Title IX Coordinator (or designee) will notify the relevant vice-president/division head and the president of the union (if the respondent is a bargaining unit member) as soon as possible after receiving the complaint and provide the respondent, complainant, the relevant vice-president/division head and the union president (when appropriate) with a copy of the complaint.

All investigations, whether resolved by informal or formal means, will be conducted as expeditiously as possible and normally will be completed within sixty (60) calendar days after receipt of the complaint, except where other circumstances require it. Holidays, days when the University has scheduled a recess, or emergency or other closings are not counted. With limited exceptions, the same process will apply during the University's summer recess.

Informal Procedures for Employee Violations of the Policy

Mediation is an informal, voluntary process that allows the complainant and respondent involved in an alleged complaint of discrimination or harassment to discuss their respective understandings of the incident with each other through the assistance of a trained mediator. Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Mediation is only offered as an option if both the complainant and respondent are employees of Rider University. Mediation is not appropriate for certain cases, such as alleged sexual assaults, even on a voluntary basis.

Upon the consent of all parties to the complaint, the Title IX Coordinator (or designee), with relevant supervisors when appropriate, will seek an outcome through mediation to be conducted by University staff or an external professional engaged by the University. Any resolution through mediation also must be mutually agreed upon by all parties to the complaint. Both the complainant and respondent have the right to bypass or end the informal complaint process at any time in order to begin the formal stage of the complaint process.

Records arising from informal procedures will not be used for any purpose other than those described above unless a complaint subsequently results in a formal hearing or otherwise becomes part of a legal action. Since informal level records represent allegations not supported by formal findings of fact, they will be maintained in a confidential manner separate from any other records for four years. They will be destroyed after that period if no further allegations or formal complaints have been received concerning the same individual. Such records shall not be used as evidence of guilt or innocence in any investigation or hearing involving a future complaint involving the same respondent. The respondent is entitled to include a response to documents contained in the confidential personnel file(s).

Formal Procedures for Employee Violations of the Policy

If the allegation of harassment has not been resolved as a result of the informal procedures or is of the kind, in the Title IX Coordinator's (or designee) opinion, that is not suitable to informal resolution, or if either the complainant or respondent request to begin the formal complaint process, a formal investigation will be initiated.

The respondent will be afforded fourteen (14) calendar days from the date that the formal investigation was initiated to provide a written response to the allegations. A copy of any response will be provided to the complainant.

The Title IX Coordinator (or designee) will either investigate the matter or assign the matter to an investigator (in either instance the “Investigator”) to promptly, fairly and impartially investigate the complaint. The investigation of all formal complaints will include, when appropriate, interviews of the (1) complainant, (2) the respondent, and (3) any witnesses and other persons who are identified as having relevant information and who agree to be interviewed. The complainant and respondent will have the opportunity to identify witnesses and other evidence for consideration. If the respondent is represented by a bargaining agent, the respondent may have that agent present at any interview with the Investigator.

The Investigator will investigate the complaint and report the results, conclusions and recommended actions, if any, to the Title IX Coordinator (or designee) and the appropriate vice-president/division head. A summary of the report will also be provided to the complainant and respondent. Upon the recommendation of the Title IX Coordinator (or designee), the appropriate vice-president/division head will initiate disciplinary action as soon as reasonably practicable, when in their judgment it is appropriate, and will attempt to take whatever steps are necessary to prevent recurrence of the offending behavior and to correct its discriminatory effects on the complainant and others, if appropriate. The complainant, respondent, and the union president (when appropriate) will be informed of the final decision and any actions to be taken.

The respondent is entitled to include a response to allegations, investigative findings, and documents included in the confidential personnel or student file(s), as the case may be. Implementation of, and challenge to, any disciplinary action will be handled according to applicable procedures, as provided by the relevant collective bargaining agreement.

Appeals of Resolution of Employee Violations

In instances where the complainant and respondent are members of the collective bargaining agreement, any appeal of a final decision will be governed by the appeal process outlined in the collective bargaining agreement. In instances where the complainant is a student and the respondent is an employee, the student appeal shall be handled by the Title IX Coordinator (or designee). A student seeking to appeal a final decision shall notify the Title IX Coordinator (or designee) in writing of the specific grounds for the appeal with seven (7) calendar days of the date of the final decision. The non-appealing party has seven (7) calendar days to respond to any written appeal. A non-appealing party is under no obligation to respond to any appeal. The Title IX Coordinator (or designee) shall review the record to determine if the final decision was within the bounds of the rationally available choices given the facts and standards set forth in the Policy. The Title IX Coordinator's decision on the appeal shall be final.

Investigating and Resolving Complaints of Student Violations of the Policy

The University offers both informal (mediation) and formal (formal adjudication) procedures for promptly investigating and resolving complaints of student violations of the Policy in a fair, unbiased and impartial manner. Mediation is not appropriate for certain cases, such as alleged sexual assaults, even on a voluntary basis.

All investigations, whether resolved by informal or formal means, will be conducted as expeditiously as possible and normally will be completed within sixty (60) calendar days after receipt of the complaint, except where the complainant agrees that a longer period of time would be appropriate or circumstances require it. Holidays, days when the University has scheduled a recess, or emergency or other closings are not counted. With limited exceptions, the same process will apply during the University's summer recess.

Mediation is an informal, voluntary process that allows the complainant and respondent involved in an alleged complaint of discrimination or harassment to discuss their respective understandings of the incident with each other through the assistance of a trained mediator. Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Mediation is only offered as an option if both the complainant and respondent are students at Rider University. If either student is less than 18 years of age, the University may require that the minor student's parent consent in writing to the student's participation in the mediation. **Mediation is not appropriate for certain cases, such as alleged sexual assaults, even on a voluntary basis.**

Formal Adjudication is the formal process for investigating complaints of student violations of the Policy. A complaint is formally adjudicated when it involves sexual assault, when the discrimination or harassment complaint has not been addressed as a result of mediation, or if either the complainant or respondent requests referral to Formal Adjudication as described below. Formal adjudication involves a fact-finding investigation along with a hearing or other related decision-making process to determine if the alleged incident occurred and what actions the University must take in response. A formal investigation is initiated by the Title IX Coordinator (or designee) as the first step in the process.

Mediation

(Informal Procedures for Investigating and Resolving Complaints of Student Violations of the Policy)

Confidentiality of the Mediation Process

In order to promote honest, direct communication and a resolution through mediation, information disclosed in Mediation must remain confidential, except where disclosure may be required as set forth in this Policy, under law or as may be authorized by the Title IX Coordinator (or designee) in connection with responsibilities of the University.

Mediation Process

The mediation process will proceed as follows:

1. **Initiating Mediation:** In cases where Mediation is appropriate, the Title IX Coordinator (or designee) will discuss with the complainant and respondent whether or not they are willing to participate in Mediation. In addition, the mediation process can be initiated any time prior to the formal adjudication of the case. Both the complainant and respondent must agree to the Mediation in writing.
2. **Assignment of a Mediator:** Once the complainant and respondent have agreed to Mediation in writing, the Title IX Coordinator (or designee) will appoint a trained mediator (the "Mediator") who will mediate the case. The Mediator will be appointed within fourteen (14) calendar days of the agreement of the complainant and respondent to participate in Mediation. The Mediator will contact the complainant and respondent to set the date, time, and location of the mediation session(s).

Mediation Procedures

1. **Persons Participating:** Typically only the Mediator and the complainant and respondent will be participants in the mediation session(s). However, either the complainant or respondent may request and the Mediator in their sole discretion may permit each party to have a support person present. The extent of the participation of support person(s) in the mediation is subject to the sole discretion of the Mediator.
2. **Mediation Process:** During the mediation process, the Mediator normally will: (1) ask the complainant and respondent to give their versions of the incident, including both factual information and their feelings; (2) identify key issues; (3) seek the agreement of both the complainant and respondent on the issues; (4) facilitate discussion; and (5) work with both the complainant and respondent to develop a written document that will include a statement of agreement. No offers of apology or concessions are required to be made during the mediation.

Mediation Outcomes

1. **Mediation Resolution:** Any statement of resolution by mediation will be incorporated into an agreement (the “Mediation Agreement”), to be signed by both the complainant and respondent, the Mediator, and will be approved by the Title IX Coordinator (or designee) before it takes effect. Any activity or behavior, or prohibition thereof, to which either the complainant or respondent has agreed in the mediation will be included in the Mediation Agreement. Since an individual’s entry into a Mediation Agreement is voluntary, there is no right to appeal by either the complainant or respondent from the terms of the Mediation Agreement once it has been signed by the complainant and respondent, the Mediator, and approved by the Title IX Coordinator (or designee). The approval of the Mediation Agreement by the Title IX Coordinator (or designee) constitutes a directive of the Title IX Coordinator requiring both the complainant and respondent to fully comply with all the terms of the Mediation Agreement. The Mediation Agreement will be kept on file at the Office of the Associate Vice President for Student Affairs. If either the complainant or respondent believes the terms of the Mediation Agreement have not been met by the other individual, they may contact the Title IX Coordinator, who will ask the Mediator or other designated person to investigate the allegation of noncompliance. The Title IX Coordinator (or designee) may take such action as he deems appropriate in response to the investigation of noncompliance with the Mediation Agreement, or at his sole discretion, the matter may be referred to an Investigator, followed by a hearing before a Board, if such further investigation and/or sanctions are warranted.
2. **Non-Resolution and Referral to Formal Adjudication:** If either the complainant or respondent is dissatisfied with the mediation process at any time prior to the signing of a Mediation Agreement, that party may request that the mediation process cease. In such a case, absent an express determination to the contrary by the Title IX Coordinator (whose discretion in such determination is exclusive and final), Formal Adjudication may only be pursued if the request is initiated within one (1) calendar year of the termination of the mediation process provided, however, that for good cause shown as determined in the sole discretion of the Title IX Coordinator, this period of time may be extended. In the event that Formal Adjudication occurs after some part of the mediation process has taken place but prior to any resolution at mediation, only the complaint form will be forwarded by the Title IX Coordinator (or designee) to the assigned Investigator.

Formal Adjudication

(Formal Procedures for Investigating and Resolving Complaints of Student Violations of the Policy)

The formal adjudication process for investigating and resolving complaints of student violations of the Policy will be conducted as expeditiously as possible and normally will be completed within sixty (60) calendar days after receipt of the complaint, except where the complainant agrees that a longer period of time would be appropriate or circumstances require it, including when mediation is being conducted. Holidays, days when the University has scheduled a recess, or emergency or other closings are not counted. With

limited exceptions, the same process will apply during the University's summer recess. For the purposes of this Policy, the formal adjudication process includes the fact-finding investigation along with a hearing or other related decision-making process to determine if the alleged incident occurred and what actions the University must take in response.

The University may need to delay temporarily the fact-finding portion of the investigation if and when law enforcement authorities are gathering evidence. The length of time for evidence gathering by law enforcement authorities will vary depending on the specific circumstances of each case. Interim protective measures can be pursued during this time. Both the complainant and respondent will be updated on the status of the investigation, including when it is resumed.

Investigation

Confidentiality of the Investigation

In order to comply with laws and regulations protecting education records of students and to provide an orderly process for the determination and consideration of relevant evidence without undue intimidation or pressure, the investigation findings are confidential. Investigation findings may not be disclosed except as described below or as required or authorized by law or as may be authorized by the Title IX Coordinator (or designee) in connection with responsibilities of the University.

Investigation Process

The investigation process will proceed as follows:

1. **Assignment of Investigator:** The Title IX Coordinator (or designee) will assign the matter to a trained investigator or investigators (the "Investigator") to promptly, fairly and impartially investigate the complaint.
2. **Conduct of the Investigator:** The Investigator will promptly, fairly and impartially investigate the complaint. The Investigator may not privately discuss the facts or merits of the case with the complainant or respondent or with anyone acting on behalf of the complainant or respondent. The Title IX Coordinator (or designee) will provide the Investigator with a written copy of the complaint and any other supporting material.

Investigation Procedures

1. **Initiation of the Investigation:** The Title IX Coordinator (or designee) will initiate an investigation by notifying the respondent that a complaint has been filed, informing the respondent of the nature of the complaint, and providing the respondent with a written copy of the complaint. The Title IX Coordinator (or designee) will explain the process and the relevant avenues of redress to the complainant and respondent and provide them a written summary of the process. The

respondent will be afforded seven (7) calendar days in which to provide a written response to the complaint, a copy of which will be provided to the complainant. During this seven (7) day period, the investigation may proceed forward.

2. **Interviews:** The investigation will include, where permissible, interviews of (1) the complainant, (2) the respondent, and (3) any witnesses and other persons who are identified as possibly having relevant information related to the allegation, and who agree to be interviewed. The investigation also will include a review of relevant documentation and other information the Investigator deems relevant.

Investigation Outcomes

1. **Investigation Report:** The Investigator will prepare a written report (the “Investigation Report”) concerning the results of the investigation. The Investigation Report will be distributed to the complainant, the respondent, and the Title IX Coordinator (or a designee). If a Board hearing is held, the Board will also be provided with a copy of the Investigation Report. The respondent may respond in writing to the Investigation Report within seven (7) calendar days of the delivery date of the Investigation Report. Any response will be delivered to the Title IX Coordinator (or designee) for review.
2. **Determination of Charges:** The Title IX Coordinator (or designee) reviews the Investigation Report and any response, consult with the Investigator, and make a determination of whether sufficient facts exist to warrant a Formal Hearing. The Title IX Coordinator (or designee) also will determine what charges (e.g., “Discrimination,” “Sexual Assault,” “Sexual Misconduct,” or other forms of “Sexual Harassment” or other “Harassment,” or “Domestic Violence,” “Dating Violence,” or “Stalking”), if any, will be referred for a Formal Hearing. That determination will be communicated in writing to the complainant and respondent in the form of the Notice of Charges or other written communication as appropriate.

A complainant whose request for Formal Adjudication is denied may appeal that denial to the Title IX Coordinator (or designee) within five (5) calendar days. The Title IX Coordinator (or designee) will then review the complaint and the Investigator’s report and all other available case material. The decision of the Title IX Coordinator (or designee) on the appeal is final and not the subject of further appeal.

3. **Notice of Charges:** If a Formal Hearing is deemed necessary, the Office of Community Standards will commence the hearing process by providing written notice to the respondent (“Notice of Charges”) stating: (1) the nature of the complaint; (2) the offense alleged (including references, as applicable, to the Standards of Conduct allegedly violated); (3) the name of the complainant; (4) the date, time and place of the Formal Hearing; (5) the date, time, and place of the pre-hearing meeting at which preliminary matters will be discussed as outlined in the “Pre-Hearing Meeting(s) and Determination of Witnesses” section that follows; and (6) the names of the Board members (the “Board”), including the presiding chair. The Notice of Charges is mailed to the respondent’s current local or other address on record with the University and is considered effective three (3) calendar days after such mailing or otherwise when actually received by the respondent, whichever occurs first. The Notice of Charges is simultaneously mailed

to the complainant's current local or other address on record with the University along with the date, time, and place of a separate pre-hearing meeting at which preliminary matters will be discussed.

4. **Request to Terminate the Investigation:** Upon mutual consent, the complainant and respondent may seek to terminate a formal investigation, but the Title IX Coordinator (or designee), in consultation with the Investigator, may nevertheless determine, in his judgment and discretion, that the interests of the University community require the continuation of the formal investigation.

Formal Hearing

A Formal Hearing before the Student Anti-Harassment and Non-Discrimination Board (the "Board") results if and when charges are determined by the Title IX Coordinator (or designee) as a result of the Investigation.

The Formal Hearing must take place not more than fourteen (14) calendar days after delivery of the Notice of Charges to the respondent, unless the Board Chair, in their sole discretion, allows for a longer period of time.

If a complaint is filed within sixty (60) calendar days of the respondent's intended graduation, during a University recess or Summer Session, or in other circumstances where the Title IX Coordinator (or designee) determines that the complaint cannot otherwise be resolved in a timely manner, procedural options may be limited. In particular, a Formal Hearing under these circumstances may instead take the form of an administrative hearing by a designated Student Affairs employee appointed by the Title IX Coordinator (or designee).

Confidentiality of the Formal Hearing Process

In order to comply with laws and regulations protecting education records of students and to provide an orderly process for the presentation and consideration of relevant evidence without undue intimidation or pressure, the hearing process before the Board is confidential and is closed to the public. Documents prepared in anticipation of the hearing (such as the Investigator's report, the Notice of Charges, or any written pre-hearing submissions), documents, testimony, or other evidence introduced at the hearing; or any transcript of the hearing itself, may not be disclosed except as required or authorized by law or as may be authorized by the Title IX Coordinator (or designee) in connection with responsibilities of the University.

Hearing Process

The hearing process shall proceed as follows:

Composition and Purpose of the Board

1. **Composition of the Board:** The Board will be composed of three (3) impartial and trained, professional staff members of the University community appointed by the Title IX Coordinator (or designee). The Title IX Coordinator (or designee) designates one Board member to serve as the presiding chair of the Board (the “Board Chair”).
2. **Challenge of Board Member:** A complainant or respondent wishing to challenge the participation of any Board member must notify the Board Chair and the Title IX Coordinator (or designee) in writing, stating the reason(s) for the party’s objection. Such a challenge must be made in writing and delivered to the Board Chair and the Title IX Coordinator at 2083 Lawrenceville Road, Lawrenceville, New Jersey 08648-3099, Moore Library Room 108, within seven (7) calendar days of the mailing of the Notice of Charges to the respondent and complainant in the manner set forth in the Notice of Charges section. Except with respect to challenges to the participation of the Board Chair, the Board Chair determines whether the challenge has merit and reserves sole discretion to make changes in the Board’s composition at all times. In the event of a challenge to the participation of the Board Chair, the Title IX Coordinator (or designee) determines whether the challenge has merit and reserves sole discretion to appoint another Board member or other person as the Board Chair for a given hearing.
3. **Conduct of the Board:** The Board will seek to encourage an open exchange of information within the rules of confidentiality articulated in these procedures. While the Board’s procedures are designed to ensure due process for the complainant and respondent, the Board is not bound by the rules of criminal or civil procedures that govern judicial proceedings in court. Board members will serve as impartial fact finders and not as advocates for either the complainant or respondent. Once an individual has been named to the Board, they may not privately discuss the facts or merits of the case with the complainant or respondent or with anyone acting on behalf of either the complainant or respondent. The Board Chair will provide Board members with a copy of the Notice of Charges, the Investigation Report, the incident report, written statements, and list of witnesses and documents or other evidence submitted by the complainant and respondent in advance of the hearing date.

Pre-Hearing Procedures

1. **Pre-Hearing Submissions:** No less than seven (7) calendar days prior to the hearing date, the complainant and respondent must provide the Board Chair with brief written statements describing their positions, a list of witnesses they propose to call, and copies of documents and a description of any other evidence they propose to present at the hearing. The Board Chair provides a copy of such written statements and documents to the other party as set forth below. In the absence

of good cause as determined by the Board Chair in their sole discretion, the complainant and respondent may not introduce witnesses, documents, or other evidence at the hearing that were not timely provided to the Board Chair as set forth above. The complainant and respondent are also responsible for securing the attendance of their proposed witnesses at the hearing.

2. **Pre-Hearing Meeting(s) and Determination of Witnesses:** The Board Chair will seek to schedule one or more pre-hearing meeting(s) with the complainant and respondent, either jointly or separately at the sole discretion of the Board Chair, no less than three (3) calendar days prior to the hearing date. At the meeting(s), the Board Chair will review hearing procedures with the complainant and respondent. The Board Chair will also review the list of proposed witnesses to assist the complainant and respondent in eliminating redundant testimony. At the pre-hearing meeting(s), the Board Chair will provide the complainant and respondent with a copy of the written statement, list of witnesses, and identification or copies of documents or other evidence submitted by the other individual.

Hearing Procedures

1. **Hearing Moderator:** The Title IX Coordinator (or designee) may designate an administrator to act as a hearing moderator to be present at a hearing to control the hearing and ensure the hearing follows procedural guidelines. The moderator will be impartial and has no interest or input in the outcome of the hearing.
2. **Persons Participating:** Typically, the complainant and respondent, their respective advisors, the University's counsel, the Board members and a moderator are the only individuals present at the hearing. The complainant and respondent may request of the Board Chair to have an advisor of their choice be present at the hearing and any related meetings. The advisor may not be an active participant in the hearing. Should either the complainant or respondent fail to appear at the scheduled hearing, the Board Chair may postpone the proceedings or the Board may proceed and determine the complaint on the basis of the evidence presented, provided the absent party was duly notified in advance of the scheduled hearing date as outlined above. The complainant and respondent are not required to be present at the hearing. However, the exercise of that right does not preclude the Board from proceeding and determining responsibility on the basis of the facts and circumstances presented. If requested, the University will make arrangements such that the complainant and respondent are not present in the same room at the same time as part of the hearing.
3. **Recording:** The Board Chair will arrange for the hearing to be audio-recorded.
4. **Advisors:** The complainant and respondent are each entitled to have one advisor of their choice present at the hearing before the Board. Advisors are not permitted to address the Board, examine witnesses or otherwise directly participate in the hearing on behalf of either party. Moreover, advisors will not receive notices, which might be sent to the complainant or respondent.

5. **Conduct of the Hearing:** The hearing before the Board will not follow a courtroom model. The Board Chair will determine the order of the witnesses and resolve any questions of procedure arising during the hearing. Absent extraordinary circumstances, the Investigator will not testify at the hearing unless approved by the Board Chair upon finding that the Investigator may have material information that cannot otherwise be provided to the Board. The complainant and respondent will not be expected to repeat undisputed details or non-material circumstances that would merely duplicate the written materials. The Board, in its discretion, may seek to have other persons speak at the hearing. Only the Board Chair and the Board may question the complainant, respondent, and any witnesses. However, the complainant and respondent may ask the Board Chair to pose additional questions or inquire further into specific matters by submitting these requests in writing. If necessary, a brief recess may be granted to allow the complainant and respondent an opportunity to prepare and submit such requests. The Board Chair is empowered to disallow any questions that are irrelevant or redundant. After all witnesses have been questioned, the complainant and respondent may make a closing statement and request a short recess to prepare their statement(s). If the Board determines that unresolved issues exist that would be clarified by the presentation of additional evidence, the Board Chair may recess the Board hearing and reconvene it for the presentation of additional evidence in a timely manner. A recess may not be based on the failure of witnesses to appear without good cause or on the proposed introduction of documents or other evidence that should have been presented at the pre-hearing meeting(s).
6. **Impact Statement:** During the hearing, the complainant may present the Board with a statement recommending a sanction ("Impact Statement"). The respondent will be provided an opportunity to respond to the Impact Statement. The Board is not bound by these statements in determining responsibility or the sanction. Witnesses other than the parties normally are not permitted at the Impact Statement phase of the hearing; however, the Board Chair reserves the sole discretion to authorize the presence of other persons.

Hearing Outcomes

1. **Standard for Responsibility Finding:** All decisions by the Board will be made by majority vote. The Board first determines whether the respondent is responsible for the alleged discrimination/harassment (including, but not limited to, sexual assault, sexual misconduct, sexual harassment, dating violence, domestic violence or stalking) (the "Responsibility Finding"), and then, if appropriate, determine by majority vote the sanction to be imposed on the respondent (the "Sanction Finding"). A finding of responsibility must be supported by a "preponderance of the evidence." "Preponderance of the evidence" means that the University establishes that it is more likely than not that the respondent is responsible for committing the act or acts complained of. If the respondent has been charged with "Sexual Assault," the Board determines whether that charge has been established by a preponderance of the evidence. If the Board determines that there is not a preponderance of the evidence warranting a finding of sexual assault, the Board

then considers whether sexual misconduct or sexual harassment or other discrimination has been established by a preponderance of the evidence, whether or not such conduct or charge is specifically set forth in the Notice of Charges.

2. **Sanction Findings:** After the Board has made a Responsibility Finding, the Board may impose any sanction that it finds to be fair and proportionate to the violation and in the interests of the University community, including the respondent and complainant, and that is authorized for violations of the Student Code of Conduct (the "Sanction Finding"), including disciplinary probation, suspension, and expulsion. In determining an appropriate sanction, the Board may consider any record on the part of the respondent of past violations of the Student Code of Conduct, as well as the nature and severity of the violation(s) and any mitigating circumstances. The Board will consider as part of its deliberations whether the respondent poses a continuing risk to the complainant and/or University community. The University expects all cases involving a finding of sexual assault to involve consideration of the sanctions of suspension or expulsion. Any sanction imposed is based on a majority vote of the Board. All Sanction Findings require a finding that the sanction to be imposed is warranted by a preponderance of the evidence.
3. **Sanction Levels:** In instances involving student violations of the Policy, the charge(s) will correspond with the following sanction ranges, based on the severity of the alleged violation(s):
 - a. Harassment/Discrimination (of a non-sexual nature) (Level 2 to Level 4)
 - b. Sexual Assault (Level 1 to Level 2)
 - c. Sexual Misconduct (Level 1 to Level 3)
 - d. Sexual Harassment (Level 1 to Level 3)
 - e. Sexual Discrimination (Level 1 to Level 3)
 - f. Dating Violence (Level 1 to Level 3)
 - g. Domestic Violence (Level 1 to Level 3)
 - h. Stalking (Level 1 to Level 3)

The above-referenced sanction ranges correspond with the sanction levels found in the University's Student Code of Social Conduct as outlined in The Source (www.rider.edu/thesource). Please refer to page 27 of this booklet for detailed information regarding sanction levels. For purposes of any sanction finding under this Policy, a preponderance of the evidence standard will be utilized.

4. **Effective Date of Sanction:** Sanctions imposed by a Board are not effective until any timely administrative appeal of the decision by the respondent is completed. However, if advisable to protect the welfare of the complainant or the University community, the Board may include in its Determination Letter that any probation, suspension, or expulsion is effective immediately and will continue in effect until such time as the Title IX Coordinator (or designee) may otherwise determine in his sole discretion. The Title IX Coordinator (or designee) may suspend the Board's determination pending exhaustion of an appeal, or allow the respondent to attend classes or participate in other University activity(ies) on a supervised or monitored basis. The decision(s) of the Title IX Coordinator (or designee) in this regard is in his sole discretion and is not appealable.

5. **Determination Letter:** Within ten (10) calendar days following the hearing, or such longer time as the Board Chair may for good cause determine, the Board will issue its decision in writing (the “Determination Letter”). The Determination Letter will be simultaneously mailed to the complainant’s and the respondent’s current local or other addresses on record with a copy provided to the Title IX Coordinator. (Should there be any change to the hearing result prior to the time it becomes final, the complainant and respondent will also be notified simultaneously in writing.) The Determination Letter will contain only the following information: (1) the name of the respondent; (2) whether the respondent has been found responsible or not responsible of the charges; (3) the sanction imposed, if any; and (4) procedures for filing an appeal. University policy neither encourages nor discourages further disclosure of the Determination Letter by either the complainant or respondent. The University encourages a student who wishes to disclose the Determination Letter to any other person to consult with legal counsel before doing so.
6. **Early Resolution:** The Board Chair may propose a resolution of a complaint and request for Formal Hearing, with the consent of the complainant, at any time in cases where the respondent wishes to acknowledge responsibility for the acts of discrimination/ harassment (including, but not limited to, sexual assault, sexual misconduct, or sexual harassment) and the respondent agrees to be subjected to a sanction.

Appeal

The complainant and respondent each may appeal the Board’s decision by notifying the Title IX Coordinator (or designee) in writing of the specific grounds for the appeal within seven (7) calendar days of the date of the Board’s decision. The non-appealing party has seven (7) calendar days to respond to any written appeal. A non-appealing party is under no obligation to respond to any appeal. All appeals are reviewed by an appellate panel (the “Appellate Panel”) consisting of three (3) impartial and trained University officials designated by the Title IX Coordinator (or designee). The Appellate Panel reviews the record presented to the Board with respect to the grounds for the appeal. The Appellate Panel will overturn a Board’s decision if it finds that the Board exceeded the bounds of the rationally available choices given the facts and standards set forth in the Policy. The decision of the Appellate Panel is based on a majority vote and that decision is final.

Primary Prevention Programs and Ongoing Prevention and Awareness Campaigns

As defined by federal regulation, primary prevention programs are programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. Ongoing prevention and awareness campaigns are programming, initiatives, and strategies that are sustained over

time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.

The University's primary prevention programs and ongoing prevention and awareness campaigns cover the following:

- The University's prohibition of all forms of discrimination, harassment, sexual assault, sexual misconduct, sexual harassment, dating violence, domestic violence and stalking.
- The University's Anti-Harassment and Non-Discrimination Policy, including a discussion on what it covers, how it works, the definitions of consent and policy violations, and the University's obligation to promptly report, and fairly and impartially investigate and resolve all complaints of that policy.
- Bystander intervention strategies which are safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking.
- Risk reduction information, which includes options designed to decrease perpetration and bystander inaction and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

Provision of the University's primary and ongoing prevention and awareness programs for students and employees is the joint responsibility of the Title IX Coordinator, Associate Vice President for Student Affairs, Director of Public Safety, and Prevention Education Coordinator Alcohol/Drug & Sexual Assault Prevention (ASAP).

Primary Prevention Programs

Rider University conducts annual primary prevention programs regarding sexual assault, domestic violence, dating violence and stalking for all new students, faculty, staff and administrators. The programs occur as follows:

- At new student orientation during the summer and fall prior to the start of the academic year. Additionally, all new first year and transfer undergraduate students complete an online education program.
- At new faculty orientation held each summer prior to the start of the academic year.
- At new employee orientation held throughout the year.

Ongoing Prevention and Awareness Campaigns

The University also conducts ongoing prevention and awareness campaigns for all students, faculty, staff and administrators as follows:

Faculty, Staff and Administrators

- Annual notification of the Policy and available resources.
- Annual training for Public Safety, Student Affairs, Residential Programs and Athletic staff.
- Annual training for University faculty and staff who serve as investigators, mediators and hearing board and Appellate Panel members for addressing allegations of violations of the University's Anti-Harassment and Non-Discrimination Policy.
- Annual training for advisors of student clubs and organizations including intramurals and club sports.
- Annual training for freshman seminar coordinators.
- Annual training for all other faculty and staff via regularly scheduled or special department and divisional meetings.

Students

- Annual notification of the Policy and available resources.
- Annual orientation for all new and returning student-athletes prior to the start of each academic year.
- Annual training provided to sororities and fraternities, students clubs and organizations and to resident students via residence hall and other programming on both campuses.
- Campus-wide events such as Take Back the Night, Stalking Awareness, The Clothesline Project, Rider Cash Cab, *The Vagina Monologues*, Denim Day, These Hands Don't Hurt, Sexual Assault Awareness Month (April), Domestic Violence Awareness Month (October) and Safer Spring Break Awareness Week.

Violation Levels and Consequences for Students

Any Rider University student who engages in any act or conduct proscribed in this Policy may, upon finding of responsibility by the appropriate hearing authority, be subject to one or more of the following consequences.

Violation Levels

For every allegation of misconduct, with the exception of the Alcohol Policy, which has its own sanctioning guidelines, the University assigns a corresponding level of violation. Levels, ranging from 1 (most serious) to 5 (least serious), indicate the alleged seriousness of a violation. Levels also dictate consequences that may be imposed if a student is found

responsible for misconduct. The hearing authority ultimately determines a level of responsibility. A student may be charged at one level by the Community Standards administrator and the standards board or other hearing authority may find responsibility at a different level. Hearings are intended to allow a student to dispute the level of violation in addition to responsibility. Mitigating factors shall be taken into account by all hearing authorities, along with all relevant circumstances, in determining the appropriate consequence(s) to be assigned at that level.

Level 1:

- a. The student may be expelled from the University indefinitely and possibly permanently. Expulsion may be immediate if warranted.
- b. Or, the student must be dismissed for a minimum of one year. Dismissal may be immediate if warranted.
- c. As with any other separation from the University, students wishing to return to Rider must re-apply for admission to the Dean of Students. Students found responsible at this level are not entitled to a refund of tuition or housing costs.

Level 2:

- a. The student may be dismissed from the University for a period not to exceed one year.
- b. If the option in “a” above is not warranted, then the hearing authority must remove the student from residency on campus and impose restrictions on that student’s access to campus areas. In the case of a commuter, the student shall be restricted from entry into non-academic buildings.
- c. As with any other separation from the University, suspended students wishing to return to Rider must re-apply for admission to the Dean of Students. In the case of removal from residency, students must apply for housing to the director of residence life. Students found responsible at this level are not entitled to a refund of tuition or housing costs.
- d. The student may be put on disciplinary probation for a specific time period. The hearing authority may impose any other consequence(s), other than dismissal, which it considers applicable including but not limited to, delay of diploma, non-attendance at commencement ceremonies, disallowance from entry to campus buildings or areas, loss of group recognition, recommended loss of Greek charter, personal counseling, community restitution, financial restitution, assigned tasks, etc.
- e. In every case at this level, except when dismissal is mandated, a fine of not less than \$75 but not greater than \$200 must be imposed. The fine may be per person when appropriate.

Level 3:

- a. The student's residency status may be terminated or altered, and he/she may be restricted from areas on campus. A commuter student may be restricted from some campus buildings or areas. In the case of removal from residency, the student(s) must apply for housing to the director of residence life. In the case of a commuter student, he/she shall be restricted from non-academic areas and unable to attend campus-wide events.)
- b. Students found responsible at this level are not entitled to a refund of housing costs.
- c. In addition to option "a," a student may be put on disciplinary probation for a period of time.
- d. If the options in "a" and "b" above are not warranted, then the hearing authority shall impose a consequence of community restitution hours, or social restrictions for a specified time, during which certain privileges may be revoked including, but not limited to, ability to participate in extracurricular activities, ability to attend or sponsor events such as intramurals or Greek Week, ability to use campus facilities, etc. It may also impose any other consequence(s) which it considers applicable including, but not limited to, non-attendance at commencement ceremonies, assigned tasks, participation in counseling, etc. Note: A violation of the Alcohol Policy at this level requires participation in the Alcohol Education Program.
- e. In every case, at this level a fine of not less than \$30 but not greater than \$100 must be imposed. The fine may be per person when appropriate.

Level 4:

- a. The student may have social restrictions imposed for a specified period during which certain privileges may be revoked which include, but are not limited to, participation in intramurals, Greek Week, or other social events, ability to visit other buildings or use certain facilities, etc.
- b. If the options in "a" above are not warranted, then the hearing authority must include a warning to the student regarding future violations. It may also impose any other consequence(s), excluding those in "a" above, which it considers applicable, including, but not limited to, restitution, assigned tasks, community restitution hours, participation in counseling. Note: A violation of the Alcohol Policy at this level requires participation in Alcohol Education Program.
- c. In every case at this level, a fine of not less than \$20 but not greater than \$50 must be imposed. The fine may be per person when appropriate.

Level 5:

- a. The hearing authority must impose a consequence of a general warning in the student's file. It may also impose any other consequence(s) which it considers applicable, including but not limited to, community or financial restitution, assigned tasks, participation in the Alcohol Education Program, etc.
- b. In every case at this level, a fine not greater than \$25 must be imposed. The fine may be per person when appropriate.

Consequences

- a. **Expulsion** – Permanent termination of student status.
- b. **Dismissal** – Temporary separation of student from University. Such action may be deemed appropriate as a consequence for more serious or repetitious violation of campus regulations. Dismissal shall not be construed as a permanent separation from the community and conditions of readmission (if any are ordered) shall be stated in the hearing authority's decision. Students dismissed for violations of University policy are considered eligible for readmission to the University, and must apply for readmission through the Dean of Students Office prior to their anticipated return date.
- c. **Removal from Residence** – Requirement that the housing contract of the individual with the University be voided and that the individual be removed from the residence halls within five days of the date of the hearing. Note: Removal from residency may occur at the discretion of the director of residence life, consistent with the University Housing agreement, for failure to comply with all applicable rules and regulations of the University exclusive of any community standards process.
- d. **Alteration of Residence Status** – Requirement that the residence location of the student be changed by the Residence Life Office within five days of the date of the hearing.
- e. **Disciplinary Probation** – Time period during which any future violations will likely result in either removal from residency or suspension from the University depending on the offense and the student's community standards history.
- f. **Social Restrictions** – Restrictions from specific privilege(s), extracurricular activities, campus event(s), contact with person or organization, etc.
- g. **Campus Restrictions** – Restrictions from being present in campus buildings or areas.
- h. **Community Restitution** – Activities or actions designed to return to the community a portion of the goodwill that was taken away by the commission of the violation. Service to the community should be designed to better the social and/or physical environment of the University and its surrounding community.

- i. **Financial Restitution** – Reimbursement for damage to or misappropriation of property. Restitution may take the form of appropriate services to compensate for damages.
- j. **Fines** – Monetary amounts imposed within the limits defined. Note: Due to historical precedent at WCC, this consequence for Westminster students shall be at the discretion of the hearing authority.
- k. **Referral to Appropriate Counseling Services.**
- l. **Administrative Directive** – A statement, written, oral, or as part of a University policy, from an administrator of the University to be complied with by student(s). May require refraining from conduct or completing an act.
- m. **Alcohol Education Program** – Includes alcohol education class, an online program, and other educational activities to be determined by the counseling center.
- n. **Warning** – Notice to the student, in writing, that continuation or repetition of the conduct found wrongful within a period of time as stated in the warning, may be cause for more severe disciplinary action.
- o. **Other consequences as warranted.**

New Jersey Campus Sexual Assault Victim's Bill of Rights

NJSA18A:61E-1 et.seq.

Introduction

A college or university in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the college community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. Respect for the individual and human dignity is of paramount importance in creating a community free from violence, sexual assault and non-consensual sexual contact.

The State of New Jersey recognizes that the impact of violence on its victims and the surrounding community can be severe and long lasting. Thus, it has established this Bill of Rights to articulate requirements for policies, procedures and services designed to insure that the needs of victims are met and that the colleges and universities in New Jersey create and maintain communities that support human dignity.

Bill of Rights

The following rights shall be accorded to victims of sexual assault that occur:

- on the campus of any public or independent institution of higher education in the state of New Jersey, and
- where the victim or alleged perpetrator is a student at that institution, and/or
- when the victim is a student involved in an off-campus assault.

Human Dignity Rights:

- to be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy
- to have any allegations of sexual assault treated seriously; the right to be treated with dignity
- to be free from any suggestion that victims are responsible for the commission of crimes against them
- to be free from pressure from campus personnel to:
 - report crimes if the victim does not wish to do so
 - report crimes as lesser offenses than the victim perceives the crime to be
 - refrain from reporting crime
 - refrain from reporting crimes to avoid unwanted personal publicity.

Rights to Resources on and off Campus:

- to be notified of existing campus and community based medical, counseling, mental health and student services for victims of sexual assault whether or not the crime is formally reported to campus or civil authorities
- to have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling
- to be informed of and assisted in exercising:
 - any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus, and/or pregnancy
 - any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

Campus Judicial Rights:

- to be afforded the same access to legal assistance as the accused
- to be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed the accused
- to be notified of the outcome of the sexual assault disciplinary proceeding against the accused.

Legal Rights:

- to have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported
- to receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities
- to receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

Campus Intervention Rights:

- to require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailants
- to be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

Statutory Mandates:

- Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation
- Each campus shall make every reasonable effort to ensure that every student at that institution receives a copy of this document
- Nothing in this act or any *Campus Assault Victim's Bill of Rights* developed in accordance with the provisions of this act, shall be construed to preclude or in any way restrict any public or independent institution of higher education in the State from reporting any suspected crime or offense to the appropriate law enforcement authorities.

Rider University Resources

- Title IX Coordinator/Associate Vice President for Human Resources
Robert Stoto
Moore Library, Room 108; (609) 895-5683; rstoto@rider.edu
- Student Health Center
Poyda C 1st floor, Lawrenceville campus; (609) 896-5060 weekdays
Taylor Hall, Princeton campus; (609) 721-7100, x8222 weekdays
- Counseling Center
Zoerner House, Lawrenceville campus; (609) 896-5157 weekdays
Williamson Hall, Princeton campus (609) 921-7100, x8275

- Division of Student Affairs
Anthony Campbell, Dean of Students, Bart Luedeke Center,
Lawrenceville campus; (609) 896-5101
Cindy Threatt, Associate Dean of Students, Scheide Student Center,
Princeton campus; (609) 921-7100, x8263
- Department of Public Safety
West House, Lawrenceville campus; Bristol Chapel basement, Princeton campus
Both campuses: (609) 896-5029 (non-emergency); (609) 896-7777 (emergency)
- Prevention Education Coordinator
Susan Stahley
Student Health Center; (609) 895-5721; sstahley@rider.edu; asap@rider.edu
www.facebook.com/RUASAP

Community Resources

- Womanspace – 24-hour crisis center and information hotline
1860 Brunswick Ave., Lawrenceville NJ 08648; (609) 394-9000
Trained and sensitive counselors and advocates are available on the phone
and in person to help the victim through the process and, at the victim's
request, will accompany her or him to the hospital, police station, or
Public Safety office. All contact with Womanspace is confidential.
- NJCASA (NJ Coalition Against Sexual Assault)
3150 Brunswick Pike, Suite 230, Lawrenceville, NJ 08648
(609) 631-4450; info@njcasa.org, 24-hour statewide hotline: (800) 601-7200
- 2NDFLOOR
www.2ndfloor.org; 1-888-222-2228 or text at (908) 280-0235 (4 – 8 pm)
2NDFLOOR is a confidential service and hotline for New Jersey youth and young
adults
- Lawrence Township Police Department
2207 Lawrenceville Rd., Lawrenceville, NJ 08648
(609) 896-1111 or 911 in an emergency
- Princeton Police Department
1 Valley Rd., Princeton, NJ 08540; (609) 921-2100 or 911 in an emergency
- Central Jersey Legal Services (for legal, visa and immigration related assistance)
198 West State Street, Trenton, NJ 08608
(609) 695-6249

Hospitals

- Capital Health, Regional (Helene Fuld)
750 Brunswick Ave., Trenton NJ 08638; (609) 896-6000
- Capital Health, 1 Capital Way, Pennington, NJ 08534; (609) 303-4000
- Princeton Healthcare System, 1 Plainsboro Rd., Plainsboro, NJ 08536;
1-800-460-4776
- Robert Wood Johnson University Hospital
1 Hamilton Health Place, Hamilton, NJ 08690; (609) 584-6666

Other Resources

- Employee Assistance Program at Rider University provided by
Business Health Services
1-800-765-3277; www.bhsonline.com (Username = Rider)
Free, confidential 24/7 telephone, online and face-to-face support for Rider
employees regarding relationships, life changes and challenges, and other issues.
- FORGE
www.forge-forward.org; AskFORGE@forge-forward.org; (414) 559-2123
FORGE provides support for transgender and gender non-conforming individuals.
- LIFEWIRE
www.lifewire.org; 1-800-827-8840 or (425) 746-1940 (24/7 crisis lines)
LIFEWIRE addresses domestic violence issues in the LGBT community.
- Sexual Assault Support and Help for Americans Abroad
www.sashaa.org
- National Dating Abuse Hotline
www.loveisrespect.org; 1-866-331-9474; 1-866-331-8453 (TTY)
- National Domestic Violence Hotline (NDVH)
www.ndvh.org; 1-800-799-SAFE (7233); 1-800-787-3224 (TTY)
NDVH provides support as well to the LGBTQ community at
www.thehotline.org/is-this-abuse/lgbt-abuse.
- Rape, Abuse & Incest National Network (RAINN) Hotline
www.rainn.org; 1-800-656-HOPE (4673)
RAINN offers confidential assistance 24 hours a day, 7 days/week.
RAINN also offers assistance to men at www.rainn.org/get-information/types-of-sexual-assault/male-sexual-assault.
- 1 in 6.org at <https://1in6.org> provides support to men who have had
unwanted or abusive sexual experiences in childhood.

If you are a victim of sexual, dating or domestic violence, get help as soon as possible. See pages 6-12 of this booklet to learn where and how to report the incident and where and how to seek medical and other assistance.

Safety is everyone's responsibility No one has to do everything, but everyone can do something

Bystander Interventions

DIRECT: Directly placing yourself into a situation to prevent it from escalating further

DELEGATE: Getting someone to intervene for you who can better handle the situation

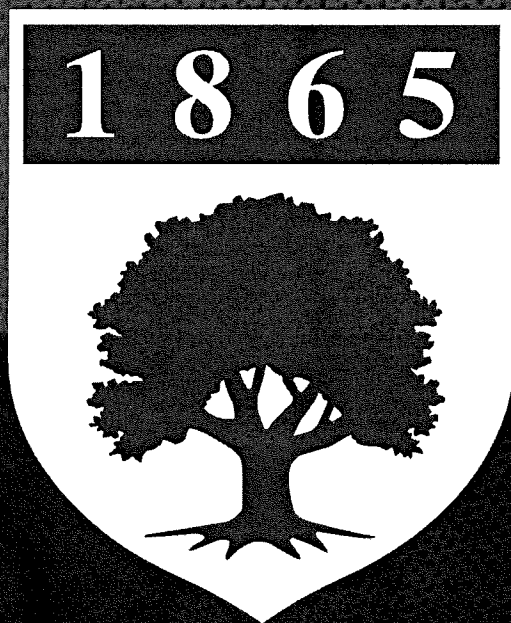
DISTRACT: Diffuse a situation by distracting those involved

General Safety Tips—Risk Reduction

- Be aware of your surroundings.
- Let someone know where you are going. Make sure you have money and a charged cell phone.
- Go places with a group and be sure everyone leaves together.
- Never prop open residence hall doors. Don't allow anyone in the residence hall who you don't know.
- Keep your room doors and windows locked.
- If you engage in sexual activity, listen carefully and be sure to give and receive affirmative consent. You have the right to say NO to any unwanted sexual contact...NO means NO!
- An intoxicated/incapacitated person cannot give consent.



2083 Lawrenceville Road, Lawrenceville, NJ 08648
www.rider.edu



Rider University Student Handbook 2015–2016

The Source

Notice of the Title IX Coordinator

Rider University is an Equal Opportunity and Affirmative Action Employer. No one will be denied employment at or admission to Rider University on the basis of race, creed, color, religion, handicap/disability, gender, age, marital status, sexual orientation or national origin. The University does not discriminate on the basis of any of the aforementioned protected bases in the recruitment and admission of students, the recruitment and employment of faculty and staff, and the operation of any of its programs and activities as specified by Federal law and regulations.

The Associate Vice President for Human Resources serves as both the Affirmative Action Officer and the Title IX Coordinator for the University, and is the resource available to anyone seeking additional information or wishing to file a complaint related to Affirmative Action and discrimination on the basis of race, creed, color, religion, handicap/disability, gender, age, marital status, sexual orientation or national origin. The Associate Vice President of Human Resources is located in Moore Library, Room 108 and can also be reached at 609-895-5683.

Rider University is a designated teaching university in the State of New Jersey pursuant to New Jersey Administrative Code 9:1-3.1 et seq.

The Source

Rider University's Official Student Handbook

Through student input and recommendations, we have developed a more compact, user-friendly publication that will serve as a resource guide for students. The purpose of this book is to provide each student with general responses to frequently asked questions as well as a listing of policies, procedures, people, and places that you might need during your stay at Rider. Keep in mind that all students are expected to know and follow Rider's policies, so we suggest that you review them carefully.

Many departments from Rider's campus have provided information for this resource guide. However, it would be impossible to answer all your questions, so we invite you to contact the departments and representatives directly. **Or, for additional information, you may access Rider University's Web page at www.rider.edu.**

– *The Rider University Student Handbook Committee*

Significance of Accepting Admission to Rider University

By the act of accepting admission to Rider University, students acknowledge and agree to the following:

1. That they will be bound by and comply with all University standards and policies, including but not limited to, those standards and policies set forth in this handbook and in the student catalog. Primary and ultimate responsibility for knowing and conforming to these standards and policies and degree requirements resides with the individual student.
2. The ultimate authority to regulate and maintain order on the University campuses resides with the President and the Board of Trustees; and,
3. The University retains ownership and the exclusive right to use any and all promotional, publicity, and entertainment products (including those produced as course requirement), creations, and activities engaged in by the student while at the university, including but not limited to photographs, television, audio and video recordings, motion pictures, artistic performances and presentations, Internet/web-based productions and sales, and athletic events and all proceeds therefrom. Students have no right to any payment for participation therein.

Students further agree to execute any documents required to confirm or convey to the University all rights outlined in subpart (3) above.

Reservation of Rights

This student handbook (The Source) is not a contract nor is it an offer to enter into a contract. While every effort is made to ensure the accuracy of the information provided in this document, it must be understood that all policies and procedures (as well as courses, course descriptions, curricular and degree requirements and other academic information) described herein are subject to change or elimination at any time without notice or published amendment. In addition, Rider University reserves the right to make changes at any time, without prior notice, to the programs, policies, procedures and other information, which are described in this document only as a convenience to its readers. Fees and all other charges are subject to change at any time without notice. Students should consult the appropriate academic or administrative department, school, college, or other service provider for currently accurate information on any matters described in this document.

Rider University also reserves the right to vary the policies and procedures in this document on a case-by-case basis, as fair and reasonable treatment of interested parties requires in the University's best judgment.

Vision and Mission

Rider's Vision

Rider University will be a leader in American higher education celebrated for educating talented students for citizenship, life and career success in a diverse and interdependent world. Rider will achieve distinctiveness by focusing on students first, by cultivating leadership skills, by affirming teaching and learning that bridges the theoretical and the practical and by fostering a culture of academic excellence.

Rider's Mission

Rider attracts and graduates talented and motivated students with diverse backgrounds from across the nation and around the world and puts them at the center of our learning and living community.

As a learner-centered University dedicated to the education of the whole student, Rider provides students the intellectual resources and breadth of student life opportunities of a comprehensive university with the personal attention and close student-faculty interactions of a liberal arts college.

Through a commitment to high quality teaching, scholarship and experiential opportunities, faculty on both campuses provide undergraduate and graduate students rigorous and relevant programs of study to expand their intellectual, cultural and personal horizons and develop their leadership skills. Our highly regarded programs in the arts, social sciences, sciences, music, business and education challenge students to become active learners who can acquire, interpret, communicate and apply knowledge within and across disciplines to foster the integrative thinking required in a complex and rapidly changing world.

Rider attracts highly qualified faculty, staff and administrators with diverse backgrounds who create an environment that inspires intellectual and social engagement, stimulates innovation and service and encourages personal and professional development. As key members of our University community, it is their commitment to our values, vision and mission that will ensure Rider's success.

The University's institutional identity will continue to reflect the strengths of its people, history, location and shared values, among which are a commitment to diversity, social and ethical responsibility and community.

The success of our graduates will be demonstrated by their personal and career achievements and by their contributions to the cultural, social and economic life of their communities, the nation and the world.

Rider University Statement of Community Values

In our endeavor to make Rider University a just community, we commit ourselves, as caring individuals, to the following principles:

- that our rigorous intellectual life nourishes our minds and spirits;
- that no person travels these halls as a stranger;
- that integrity of word and deed forms the foundation of all relationships;
- that we recognize that real leadership is derived from service to others;
- that we celebrate our differences for they are our strength;
- that we are proud of this special place, entrusted to us by past generations, nurtured by us for future ones;
- that we share not one Truth, but respect our common pursuit for understanding;
- and through the time we spend here, we are forever joined to each other and to Rider University.

Endorsed in the spring of 2001 by:

- Rider University Board of Trustees
- Rider University Student Government Associations
- University Academic Policy Committee
- The Rider University Chapter of AFSCME
- The Rider University Residence Hall Association

Adopted on University Day, April 12, 2001.

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Withdrawing from the University

A student withdrawing from the University is required to submit the withdrawal in writing through the use of the official withdrawal form obtained in the Office of Dean of Students, Bart Luedeke Center, Student Affairs Suite, 609-896-5101. All debts to the University must be paid in full. The student will also surrender his/her Rider ID card at the time of withdrawal.

Students excused from the on-site enrollment clearance process at the beginning of any semester or other school period are reminded that they are considered to be in attendance if they have not withdrawn in the manner prescribed above by the date classes actually begin.

Failure to comply with these requirements may preclude any further enrollment.

An unapproved withdrawal results in an "F" (failure) in all scheduled courses. (See the University calendar for specific withdrawal dates.)

Obtaining a Military Leave of Absence

A student withdrawing to fulfill a military obligation may apply to the Office of the Dean of Students for a military leave of absence. The application for the leave of absence should be made prior to leaving the University. Written documentation is required from the appropriate military service. Leaves for military service will automatically be renewed annually so long as the individual remains in the service for up to four years. When a student is granted a military leave of absence, academic status will generally be the same upon return as it was at the time of departure. In other words, the student may elect to graduate by meeting the curriculum requirements from the catalog from his or her original date of entry.

Obtaining a Medical Withdrawal from the University

Students requesting a withdrawal for medical reasons must request the withdrawal from the Dean of Students and provide appropriate medical documentation prior to granting of the withdrawal. Refunds, if warranted, will be processed according to University policies and Federal Regulation regarding Title IV funds.

Student Records

Aside from academic records which are kept by the registrar and the dean's office of each college, all official records of Rider University pertaining to students are kept in files maintained by the Office of the Dean of Students. These folders include, but are not limited to, student information forms, housing contracts, disciplinary actions and official correspondence. Students who want to inspect and review their records may make an appointment with the Dean of Students or his/her designee, Bart Luedeke Center, Student Affairs Suite, on the Lawrenceville campus or the Associate Dean of Students, or his/her designee, Scheide Student Center, on the Princeton campus. Students who believe that the official records contain factual inaccuracies that have not been modified through normal channels, may apply to the Dean of Students to have the

inaccuracy corrected in the records. If the matter is not satisfactorily resolved by the Dean of Students, the student may apply for a hearing before the University Appeals Council. Copies of information contained in a student's own file may be requested, in writing, and will generally be released only if failure to do so would effectively prevent a student from reviewing his/her records.

Record Retention Policy

In order to ensure compliance with the Clery Act, non-academic records of students, including but not limited to, campus housing information, financial records, disciplinary records, Public Safety records, and application materials will be maintained for seven (7) years after the date of last attendance. Records may be kept longer at the sole discretion of the University.

Access to Student Records

Access to student records may be accorded to University personnel with a legitimate educational interest in the records. An educational interest is legitimate if it exists for the educational benefit of the student. University personnel includes, but is not limited to, senior level administrators, deans, faculty directors, clerical staff, Residence Life staff, Public Safety and contracted personnel of the University.

Information may be released to other agencies and individuals according to these policies in compliance with the Family Education Rights and Privacy Act (FERPA) of 1974 (as amended):

1. The University may release the following information without written permission from the student: fact of enrollment status, dates of enrollment, degree candidacy, degree awarded and major field.
2. The University may release the following information unless the student requests in writing by the end of the second week of classes each semester that the information not be released: name, email, home and local address, home and local telephone number, participation on athletic teams and organizations, dates of attendance, and honors and awards received.

No other information concerning an individual will be released without the written permission of that person, except in those circumstances specifically outlined in FERPA as not requiring written consent such as: matters of emergency; to the parents of dependent children as defined by the IRS; complying with legal orders, etc. FERPA also requires that a record be kept of certain information that may be released without a student's consent.

A student may request to view this record by making an appointment with the Dean of Students or his/her designee.

Each student is given the opportunity to decide whether or not his or her name will be included in the University directory, which will be accessible at the Bart Luedeke Center Information Desk. Students should be aware that exclusion from this directory also excludes organizations on and off campus from notifying students of information that may be of interest to them. Students should contact the Dean of Students to request exclusion from this directory.

Students having a complaint or questions regarding FERPA may write to: Family Education Rights and Privacy Act Office (FERPA), U.S. Department of Education, Room 4512, Switzer Building, Washington, DC 20202.

University Policies

- e. **Disciplinary Probation** – Time period during which any future violations will likely result in either removal from residency or suspension from the University depending on the offense and the student's community standards history.
- f. **Social Restrictions** – Restrictions from specific privilege(s), extracurricular activities, campus event(s), contact with person or organization, etc.
- g. **Campus Restrictions** – Restrictions from being present in campus buildings or areas.
- h. **Community Restitution** – Activities or actions designed to return to the community a portion of the goodwill that was taken away by the commission of the violation. Service to the community should be designed to better the social and/or physical environment of the University and its surrounding community.
- i. **Financial Restitution** – Reimbursement for damage to or misappropriation of property. Restitution may take the form of appropriate services to compensate for damages.
- j. **Fines** – Monetary amounts imposed within the limits defined.
Note: Due to historical precedent at WCC, this consequence for Westminster students shall be at the discretion of the hearing authority.
- k. **Referral to Appropriate Counseling Services.**
- l. **Administrative Directive** – A statement, written, oral, or as part of a University policy, from an administrator of the University to be complied with by student(s). May require refraining from conduct or completing an act.
- m. **Alcohol Education Program** – Includes alcohol education class, an online program, and other educational activities to be determined by the counseling center.
- n. **Warning** – Notice to the student, in writing, that continuation or repetition of the conduct found wrongful within a period of time as stated in the warning, may be cause for more severe disciplinary action.
- o. **Other consequences as warranted.**

The Community Standards Review Process

The primary purpose for the existence of a campus community standards system is to deal with violations of the University's regulations and policies. It is not designed to reflect or duplicate the public court procedure which handles questions of criminal and civil law.

The guiding philosophy of the Office of Community Standards is education and behavior modification of students while simultaneously preserving the integrity, health and safety of other community members. To achieve these goals with fairness and expediency, certain basic rights have been established as part of the hearing procedure. For a complete description of the Standards Review Process, contact the Office of Community Standards, 896-5292, or see the Rider Website.

Rights of Participants

1. **Interim Suspension** – When immediate action is necessary to protect the health or safety of any community member or to prevent disruption to the University's learning environment, including students presenting evidence of self-harm, the president or Dean of Students or his/her designee may temporarily suspend a student. (In rare circumstances, a hearing authority may also suspend a student.) The attempted/actual physical abuse or restraint of University personnel or contractors, while acting within the scope of their duties, will also serve as a justification for an interim suspension to be imposed. Within five academic days of the invocation of this suspension, a community standards panel must determine whether grounds still exist to warrant its continuation. If there is a reasonable basis to conclude that the student may be responsible for the activity in question, and there is a possible threat to health and safety, or a threat of disruption of the normal operating procedures, the suspension may be continued. The existence of criminal charges levied by public authorities would, in itself, provide a reasonable basis for continuation. In addition, the hearing authority may review disciplinary history or other relevant information. This "suspension hearing" before the panel does not constitute the original hearing on the merits of the incident in question. This process may be altered when medical factors are claimed to be associated with the behavior in question, *as described in the Involuntary Medical Leave Policy found on page 100*. **Note:** Administrative removal from residency does not require a community standards review hearing.
2. **Advance Notice of Rights/Issues** – All participants in hearings before the Community Standards Board must be notified of their rights in the process at least 48 hours in advance of any hearings of issues involving them. Students charged with violations to be heard by the Community Standards Board must be notified of the issues and of the date and time of the hearing at least 48 hours prior to the hearing. Issues shall be presented in writing and in sufficient detail to allow the student to prepare an adequate response. (Because of the nature of the issues heard by residence directors and community standards administrators, 48 hours' notice is not required prior to the resolution of the matter.)
3. **Choice of Hearing** – Pertaining to social code violations, issues possibly requiring a level 1 consequence must be heard by a Community Standards Board panel of two students and one administrator. Issues possibly requiring consequences from level 2, not including dismissal, to level 3 may be heard by a Community Standards Board panel or by a community standards administrator depending upon the student's request. However, if the student is facing suspension, then a panel must be convened. Certain issues possibly requiring consequences from levels 4 or 5 may be heard by a residence director or area director if appropriate. A higher standard of clear and convincing evidence will be used to determine responsibility for level 1 offenses where expulsion is a possible outcome. In all matters other than level 1 when arriving at a decision, the standard to be applied is the "more likely than not" standard.
4. **Record of Hearing** – All Community Standards Board hearings will be audio-taped for appeal purposes. Community Standards Board deliberations are not included in this provision. The tapes are destroyed at the end of the appeals process.

University Policies

5. **Conflict of Interest** – Community Standards Board members who have direct interest or potentially prejudicial interest in a particular proceeding should declare themselves ineligible to hear the matter and withdraw from the proceeding.
6. **One Original Decision** – There may be only one original decision for any given hearing. An appeal to a higher authority, as well as any re-hearing ordered by the appellate body, constitutes a waiver of this right.
7. **Time Limitation/Impact on Degree** – Action with respect to violations of the Code of Social Conduct should be commenced within one calendar year of the date of the conduct which is alleged. This time limitation may be extended by the Office of Community Standards when (1) that office is unaware of the conduct in question, (2) the conduct in question is under investigation or subject to action by a governmental authority, or (3) the student delays the process or acts to prevent the University from learning of the incident. If the student is scheduled to graduate within the calendar year, reasonable efforts will be made to have the issue dispensed with prior to graduation which would include the right to appeal Community Standards Board decisions to the University Appeals Council. However, if it is not feasible to resolve the issue prior to graduation, the president or Dean of Students may decide that the granting of the degree and issuance of the diploma be withheld until such resolution occurs. If that decision is made, a Community Standards Board panel must determine within five academic days whether grounds still exist to continue withholding the degree. The board may consider the severity level of the violation, the existence of criminal charges, campus disciplinary history, the possible threat of disruption of normal operating procedures, etc. Such a determination does not constitute the original hearing on the merits of the issue in question. The running of these time frames may be suspended if the student becomes unenrolled. (This provision does not affect the running or tolling of any local, state or federal ordinance or law for civil or criminal violations.)
8. **Right to Assistance** – A student who appears before a hearing body has the right to be assisted in his/her response by any current consenting faculty, staff or student member of the Rider community (with the exception of members of the Academic Integrity Committee, College Appeals Council, SGA Executive Board, or President of the University). The student's right to an advisor attaches upon receipt of the notice of issues. The advisor should not be connected with the specific matter in any way prior to assuming the role of advisor. Community Standards Board members are trained and available to act in the capacity of an advisor.
9. **Right to Be Present** – The student and his/her advisor have the right to be present during all proceedings while issues are presented and witnesses heard. The matter may not be heard in the absence of that student unless he/she has waived the right to be present. See #18, Failure to Appear. The student's incarceration will be considered a waiver of these rights. The private deliberations of the hearing body is an exception and is not an abridgment of these rights.
10. **Right to Give Evidence** – The student and his/her advisor have the right to present evidence and witnesses. The Community Standards Board has the right to insist that information and/or witnesses relevant to the issue being heard be made available to the Board.

11. **Self-Incrimination** – During a hearing before a Community Standards Board, self-incriminating statements made, or incriminating items supplied by the student are not required and will not be used in a hearing unless the student has been informed of the right to refuse to supply such statements. No inference of guilt may be drawn by the authority because of the exercise of this right. However, the student may voluntarily waive it. In cases where the student may also be facing litigation in public court, he/she may request to have an attorney present during the University proceeding for the sole purpose of advising the student on how best to respond to certain questions in order to protect his or her rights in the public court proceedings. If the student's attorney is present, the University may also have an attorney present to ensure that the correct procedural rules are followed, and to advise participants of any legal issues that may be raised by the student's attorney. The student's attorney will not receive notices of hearings, etc., which might be sent to his or her client. It is the student's obligation to communicate all such information to the attorney.
12. **Questioning of Witnesses** – The student, his/her advisor, the university representative, and Community Standards Board members have the right to question all witnesses who testify at the hearing. If witnesses giving testimony against a person do not testify in the presence of that person, the identity of the witnesses and transcripts of the testimony and/or other evidence to be presented shall be furnished to the student no later than 24 hours prior to the hearing. The hearing authority has a special responsibility to establish the objectivity and credibility of such testimony.
13. **Search and Confiscation** – Evidence obtained in violation of this policy is not to be considered by any hearing authority. If a member of the community suspects the presence of illegal articles or contraband, or items related to the commission of a violation, the person is required to obtain permission to search and/or confiscate. No member of the community is permitted to search the room or area of any student or take any of the above items without the student's consent unless written permission to search and/or confiscate has been given by the Dean of Students or his/her designee. The permission is limited in duration, and is as specific as possible with regard to the items, people, etc. sought and the areas available for search.

Whenever possible, the student involved, the resident of a certain room, for example, should accompany those making the search. Any other prohibited item, or items, information, etc. otherwise linked to the commission of a violation which are happened upon during a search can be taken and brought to the attention of the Dean of Students Office.

Note: Prior written permission is not necessary in cases of emergency, matters of health, to verify room occupancy, to inventory recovered lost or stolen property, where the items are in plain view or where the student occupying the room has given consent. Any prohibited item or other items, information, etc. linked to the commission of a violation which are happened upon can be taken and brought to the attention of the Dean of Students Office. (A copy of the procedure for obtaining such written permission is available from the Office of Community Standards or the Student Government Association.)

14. **Past Record** – No record of a student's past community standards history or other material irrelevant to the issue being heard shall be permitted during the merit determination phase of a student's hearing. However, records of past dispositions and other material deemed relevant may be considered in the determination of appropriate consequences in the event the student is found to be responsible for the violation(s), and may serve to elevate the consequences.
15. **Written Decision** – The hearing authority is to base their decision solely upon the evidence introduced during the student's hearing. The student shall receive a written copy of the decision containing the findings and the consequences to be applied, as well as notification of the right to appeal and how to initiate that process. Copies of the decision shall also be sent to the Dean of Students, the disciplinary files, and those persons deemed by the appropriate disciplinary body as needing such notification.
16. **Maintenance of Records** – Information from disciplinary files shall not be made available to unauthorized persons without the express written consent of the student involved except under legal compulsion in compliance with federal regulations or in cases where the safety of persons is involved. The only parties authorized to maintain records of individual disciplinary cases shall be the Dean of Students Office, and those persons empowered by the University to do so.
17. **Closed Hearings** – Hearings are to be closed unless there is a request to hold an open hearing by the student. The hearing authority shall determine if the request should be granted. In any case, all persons participating in the process, including attorneys, advisors, and persons deemed to have an interest in the proceeding, as determined by the hearing authority, may remain with the student's permission. Matters involving sexual assault shall remain closed.
18. **Failure to Appear** – If a student has received due notice of an allegation and fails to appear at a hearing after receiving proper notice, the student will be charged with contempt of the system. When the student receives notice of the contempt charge, a second hearing will be scheduled to hear both the original allegation and the contempt charge. If the student fails to attend the second hearing it will be regarded as a waiver of the right to be present, and the issues of the original allegation and contempt charge will be resolved in the student's absence.
19. **Right to Appeal** – Students accepting responsibility and consequences at any level waive their right to appeal the outcome of the judicial hearing. The University or the student not accepting responsibility and/or consequences has the right to appeal decisions on level 1, 2 or 3 offenses to the University Appeals Council. Students not accepting responsibility and/or consequences of a level 4 or 5 violation may appeal the decision to a lesser level appeals board. The lesser level appeals board is a Community Standards Board panel that convenes to review level 4 or 5 dispositions by reviewing documentation. Students may obtain an application for appeal from the Office of Community Standards, Bart Luedeke Center, Student Affairs Suite.
20. **New Evidence After Appeal** – The Appeals Council is the final step in the process. However, when extenuating circumstances or new evidence warrants consideration, the Appeals Council may consider the matter.

21. **Imposition of Consequences** – The hearing authority may determine that there is sufficient cause for a consequence to be imposed prior to an appeal being heard. If so, the date and time the consequence is to take effect must be noted in the decision.
22. **Failure to Complete Consequences** – If a student fails to complete an assigned community standards sanction, or fails to abstain from an activity or location restricted by the hearing authority, this will be considered a new violation of the **Code of Conduct, Section 7.1**, Contempt of the System. The community standards administrator or his/her designee may impose additional consequences up to but not including removal from residency for the new offense without a new hearing only if the student has had previous notice of the consequences for a contempt violation. (If removal from residency or suspension from the University is recommended, a hearing will be conducted for the new offense.) Any sanctions may still be appealed in accordance with the appeals policy.

Composition and Jurisdiction of Hearing Boards

The Community Standards Board hears matters involving social code violations, appeals from subordinate hearing authorities (e.g., residence directors), constitutional questions of student organizations, contests of student government elections, and disputes between student organizations. The composition of the panel chosen to hear a particular case varies according to the type of issue being adjudicated. While most panels are comprised of two student Community Standards Board members and either one administrative or faculty Community Standards Board member, panels dealing with student organization disputes or contests are comprised solely of student hearing officers. (During summer session or semester breaks, any three Community Standards Board members may hear a case if the community standards administrator cannot reasonably place two students on the panel.)

Participants in the Process

In addition to the student who has been charged of a violation, participants in community standards hearings are as follows:

Community Standards Review Panels

A hearing panel for each case is selected at random from a pool of Community Standards Board members. Each panel is comprised of two student Community Standards Board members and either one administrative or one faculty Community Standards Board member. Student board members are University students who have applied and been accepted by the Office of Community Standards. At Westminster Choir College, the Community Standards Board members are appointed by the SGA executive board.

Administrators on Community Standards Boards volunteer their time as well. All undergo training and are assigned to hear cases or to act as student advisors as needed.

Hearing Moderator

An administrator acting as a hearing moderator may be present at a hearing to control the hearing and ensure the hearing follows procedural guidelines. The moderator will be impartial and has no interest or input in the outcome of the hearing.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on February 16, 2018, a true and correct copy of the Amended Complaint was filed and served on all counsel of record via ECF.

/s/ Lee Vartan

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