

Robert Morris University
Policy on Sexual Misconduct and Relationship Violence

For information about seeking immediate medical assistance and emotional support if you have been a victim of sexual violence, please see Exhibit A attached to this Policy.

ARTICLE I. INTRODUCTION

A. NOTICE OF NON-DISCRIMINATION

Robert Morris University does not discriminate on the basis of race, color, religion, national origin, sex, disability, sexual orientation or age in its programs and activities and provides equal access to all students, employees, and other RMU stakeholders. Title IX of the Education Amendments of 1972 ("Title IX") prohibits discrimination on the basis of sex in educational programs and activities at universities/institutions receiving federal financial assistance. Title IX prohibits all forms of sex-based discrimination, including sexual harassment, sexual violence, and other forms of sexual misconduct. The Violence Against Women Reauthorization Act ("VAWA") of 2013 includes additional requirements about how colleges and universities must respond to and address certain acts of violence, including sexual assault, domestic violence, dating violence, and stalking. RMU complies with Title IX and VAWA and is committed to providing an educational and employment environment that is free of all forms of sex discrimination and sexual violence.

Contact the Title IX Office for inquiries regarding sex-based discrimination:

Title IX Coordinator: Lisa H. Hernandez, Esq.
412-397-5968
hernandezl@rmu.edu
Title IX Office Robert Morris University
School of Business Building, Suite 125
6001 University Boulevard
Moon Township, PA 15108
412-397-5490
titleixoffice@rmu.edu

RMU's procedures for reporting Title IX and VAWA-related concerns, and important information for victims about the confidentiality of such reports, are included in Article III of this Policy. Current contact information for the RMU staff members and departments mentioned throughout this Policy can be found in Exhibit A. Capitalized terms included in this Policy have the meanings given to them in Exhibit D.

Please note: In the event of any conflict between the provisions of this Policy or the Code of Student Conduct or RMU's Human Resources policies, the provisions of this Policy shall control.

B. POLICY OVERVIEW

RMU is committed to maintaining an environment that is consistent with our Core Value of “Individuals Matter,” which calls upon all of us to demonstrate respect for the dignity of, and promote the safety and well-being of, each member of the University community. Consistent with these values, RMU does not tolerate Sexual Misconduct, including Dating Violence and Domestic Violence, and RMU is committed to fostering a community that supports victims of Sexual Misconduct, promotes reporting of Sexual Misconduct, and resolves Sexual Misconduct Complaints promptly and fairly. This Policy identifies supportive services and other resources available to victims of Sexual Misconduct (Exhibit A), describes prohibited conduct (Article II), explains the means through which allegations of Sexual Misconduct may be reported (Article III), and establishes procedures for investigating and resolving Complaints of Sexual Misconduct (Articles IV through VI). A flowchart outlining the University’s procedures for receiving, investigating, and resolving Title IX or VAWA Complaints is included in Exhibit B.

The University will make this Policy and information about recognizing and preventing Sexual Misconduct readily available to all members of the RMU community.

C. APPLICABILITY OF POLICY

This Policy applies to any allegation of Sexual Misconduct made by or against a Student, an employee of the University, or a third party, regardless of the sexual orientation or gender identity of the Complainant or the Respondent, and regardless of where the alleged Sexual Misconduct occurred, as long as the conduct giving rise to the Complaint is related to the University’s programs or activities. The University’s disciplinary authority may not extend to third parties who are not Students or employees of the University. The University may, therefore, modify the investigation and hearing procedures set forth in this Policy as necessary in the case of a third party Complainant or Respondent, while still taking appropriate measures to respond to an allegation of Sexual Misconduct against such third party. In the case of an employee Complainant or Respondent, the University may be required to modify the procedures set forth in this Policy to the extent that they conflict with the terms of any collective bargaining agreement to which the employee is subject. Both the Complainant and Respondent will be notified in writing of any such modifications to the procedures outlined in this Policy.

Although there is no geographical limitation to the requirements of this Policy, Sexual Misconduct that is alleged to have occurred at a significant distance from the University and/or outside of University property may be more difficult for the University to investigate.

ARTICLE II. STATEMENTS OF POLICY

A. PROHIBITION ON SEXUAL MISCONDUCT

This Policy is designed to protect the rights and needs of a Complainant and a Respondent. Creating a safe environment is the responsibility of all members of the University community.

The University strongly encourages prompt reporting of all types of Sexual Misconduct and is committed to fostering a community that promotes timely and fair resolution of Sexual Misconduct cases. To that end, the University has defined Sexual Misconduct broadly to include all forms of

gender-based harassment or discrimination or unwelcome conduct of a sexual nature. However, not all such conduct rises to a level warranting investigation, resolution, and/or discipline pursuant to this Policy. This Policy uses the term “Material Sexual Misconduct,” as defined in Exhibit C, to identify those acts of Sexual Misconduct that warrant investigation, resolution, and/or discipline pursuant to the procedures set forth in this Policy. Allegations of Sexual Misconduct that do not constitute Material Sexual Misconduct will be investigated, responded to, and resolved in accordance with other University policies applicable to Student or employee misconduct.

B. PROHIBITION ON RETALIATION

Retaliation against any person for filing, supporting, or providing information in good faith in connection with a Complaint of Sexual Misconduct is strictly prohibited. Violations of this prohibition will be addressed through this Policy and/or other University disciplinary procedures, as deemed appropriate in the University’s discretion. Any person who feels that he or she has been subjected to Retaliation should promptly report his or her concerns to the Title IX Coordinator or another Required Reporter (as discussed in Article III).

C. PROHIBITION ON PROVIDING FALSE INFORMATION

Any individual who knowingly files a false Complaint under this Policy, who knowingly provides false information to University officials, or who intentionally misleads University officials who are involved in the investigation or resolution of a Complaint may be committing a criminal act and will be subject to the University’s disciplinary procedures applicable to Student or employee misconduct.

D. RELATED MISCONDUCT AND LIMITED IMMUNITY

The Hearing Panel may hear allegations of, and recommend sanctions for, alleged misconduct that is related to the Sexual Misconduct at issue, even if such related misconduct is not, when standing alone, governed by this Policy.

The University encourages the reporting of any concerns regarding Sexual Misconduct. Sometimes individuals are hesitant to report instances of Sexual Misconduct because they fear they may be charged with violations of the Student Code of Conduct, such as underage drinking, or violations of other University policies. The University’s primary interest is in protecting the well-being of its community and addressing, and remedying the effects of, Sexual Misconduct. Other policy violations will, therefore, be considered separate from allegations under this Policy, and the University will consider offering victims of crimes and witnesses limited immunity from such violations, as appropriate.

E. EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

Subject to limited exceptions for Pre-Existing Relationships, romantic or sexual relationships (“Relationships”) between faculty or staff members and RMU students are prohibited, whether such Relationships are casual or serious, short-term or long-term. A “Pre-Existing Relationship” is a Relationship between a faculty or staff member and an RMU student that existed (i) before the student enrolled at RMU or (ii) before the faculty or staff member became employed by RMU. Pre-Existing Relationships must be disclosed promptly to the faculty or staff member’s direct supervisor, the Vice President for Human Resources, and the Vice President for Student Life. Even in the case of a Pre-Existing Relationship, a faculty or staff member may not teach, advise, coach, supervise, or

evaluate a student with whom he or she is in a Relationship. For purposes of this paragraph, Graduate Assistants are considered to be RMU staff members.

Relationships between employees in which power differentials are inherent are strongly discouraged; for example, a Relationship between two employees where one individual has supervisory or other evaluative authority over the other. Any Relationship involving an inherent power differential must be disclosed promptly to both employees' direct supervisors and the Vice President for Human Resources. Any employee involved in a Relationship with someone over whom he or she has supervisory authority must recuse himself or herself from decisions that affect the compensation, evaluation, or employment conditions of the subordinate.

The University reserves the right to intervene if any of the Relationships described above have the potential to compromise the University's academic or professional integrity. Any questions about the applicability of this Policy to a particular Relationship should be addressed to the faculty or staff member's direct supervisor or the Vice President for Human Resources.

ARTICLE III. REPORTING AND CONFIDENTIALITY

For information about seeking immediate medical assistance and emotional support if you have been a victim of sexual violence, please see Exhibit A attached to this Policy.

A. Overview

RMU strongly encourages reporting of any incidents of alleged Sexual Misconduct. Because Sexual Misconduct may in some instances constitute both a violation of University policy and criminal activity, and because the University's procedures under this Policy are not a substitute for instituting legal action, the University encourages individuals to report alleged Sexual Misconduct promptly to the Title IX Coordinator, local law enforcement, and/or the University Police Department or other campus officials. A report may be made by the alleged victim or another person on his or her behalf. **A chart including contact information for the various individuals to whom reports may be made is included in Section 5 of Exhibit A to this Policy.** The chart specifies whether each resource is able to serve as a "Confidential Resource" to an alleged victim. Individuals who are not specifically identified as Confidential Resources in that chart are required to report any information they receive about Sexual Misconduct to the Title IX Coordinator. Confidential reporting options are discussed under Section (B)(1) below.

As discussed in Section B of Article II of this Policy, Retaliation against any person for filing, supporting, or providing information in good faith in connection with a Complaint of Sexual Misconduct is strictly prohibited, and the University will take swift and strong corrective action in the event of any Retaliation. As discussed in Section D of Article II, the University's primary interest is protecting the well-being of its community and addressing and remedying the effects of Sexual Misconduct. The University will, therefore, consider offering alleged victims and witnesses of crimes limited immunity from certain violations of the Student Code of Conduct, or such as underage drinking, or violations of other University policies, as appropriate.

Individuals may file a Complaint at any time, but the University strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in filing a Complaint may compromise the subsequent investigation, particularly if the Complainant or the Respondent are not enrolled as Students or employed by the University at the time of the report.

However, the University does retain the authority to pursue disciplinary action against a Respondent who withdraws or is suspended from the University after an alleged incident of Sexual Misconduct and may withhold the Respondent's diploma pending the final resolution of the Complaint.

B. Options for Reporting and Confidentiality Considerations

1. Privileged and Confidential Communications

A variety of resources are available at the University and in the local community to assist individuals who are alleged victims of, or witnesses to, Sexual Misconduct. RMU encourages victims of Sexual Misconduct to talk to someone about what happened, so victims can receive the support they need, and the University can respond appropriately. The ability of an individual to maintain the confidentiality of information he or she receives from an alleged victim of, or witness to, Sexual Misconduct differs depending upon the individual's role. Some individuals are able to maintain complete confidentiality, because they are legally prohibited from disclosing the information to anyone else without the alleged victim's consent. Other individuals are legally required to report the information to the University's Title IX Coordinator so he or she can conduct an investigation. A chart including contact information for various on- and off-campus resources that are available to assist alleged victims of Sexual Misconduct is included in Section 5 of Exhibit A to this Policy. The chart specifies whether each resource is able to serve as a "Confidential Resource" to an alleged victim. Please note that most University faculty and staff members are "Required Reporters," as discussed in Section 2 below, and are required to report any information they receive about an alleged incident of Sexual Misconduct to the Title IX Coordinator. It should be assumed that any individual who is not specifically identified as a Confidential Resource in that chart is a Required Reporter.

A Student or employee who wishes to speak confidentially about an alleged incident of Sexual Misconduct with one of the Confidential Resources listed in Exhibit A should understand that, in the event of a confidential report, the University will be unable to conduct an investigation into the incident or pursue disciplinary action against the alleged perpetrator. These counselors will, however, assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health, or mental health services, changes to residential or employment circumstances, and/or changes to course schedules. An alleged victim who initially makes a confidential report to a Confidential Resource may later decide to file a Complaint with the University or report the incident to local law enforcement and have the incident fully investigated. If so, the Confidential Resource will provide the victim with assistance in making these reports.

2. Reporting to "Required Reporters" of the University

A "Required Reporter" is an employee of the University who has the authority to redress Sexual Misconduct, who has the duty to report incidents of Sexual Misconduct to the Title IX Coordinator, or who could be reasonably perceived by a student to have this authority or duty. **Any employee of the University who is not specifically identified as a Confidential Resource in the chart included in Exhibit A is a Required Reporter.**

When an alleged victim or a third party tells a Required Reporter about an incident of Sexual Misconduct, such individual has the right to expect the University to take immediate and appropriate steps to investigate and resolve the matter promptly and fairly. A Required Reporter has an obligation to report all relevant facts, including the identities of the alleged victim and alleged perpetrator, to the Title IX Coordinator. To the extent possible, information reported to a Required Reporter will only

be shared with individuals who are responsible for handling the University's response to the report. A Required Reporter will not share information with local law enforcement without the victim's consent or unless the victim has reported the incident to local law enforcement, subject to certain situations in which the University may be required to notify law enforcement authorities due to the nature of the allegations at issue (if, for example, the allegations involve harm to a minor or the possibility of a broader threat to the community).

The alleged victim or the third party making the report may request that the University treat information regarding alleged Sexual Misconduct disclosed to Required Reporters as confidential, or may ask that the University not investigate the matter. The University takes such requests seriously; however, such requests may limit the University's ability to investigate and take appropriate action in response to a Complaint.¹ In such cases, the University will evaluate the request that a Complaint remain confidential in the context of the University's commitment to provide a reasonably safe and non-discriminatory environment.

In order to make such an evaluation, the Title IX Coordinator may conduct a preliminary investigation into the alleged Sexual Misconduct and may weigh the request against one or more of the following factors:

- (i) the seriousness of the alleged Sexual Misconduct;
- (ii) the alleged victim's age;
- (iii) the alleged perpetrator's right to receive information about the allegations if the information is maintained by the University as an "education record" under FERPA;
- (iv) whether there have been other Complaints of Sexual Misconduct against the alleged perpetrator;
- (v) whether the alleged perpetrator has a history of violence or threats of violence;
- (vi) whether the Sexual Misconduct was perpetrated with a weapon;
- (vii) whether the Sexual Misconduct was committed by multiple perpetrators;
- (viii) whether the alleged victim's report reveals a pattern of perpetration at a given location and/or by a particular group;
- (ix) whether there is a continuing threat to the campus community;

¹ A Respondent has a right to know the name of the accuser and information regarding the nature of the allegations in order to defend against the Complaint; thus, the University may not be able both to investigate and resolve the Complaint and maintain the confidentiality of the Complainant and/or alleged victim (if not the Complainant) during that process. That said, as explained later in this Section, if the Complainant and/or alleged victim insist(s) on confidentiality, the University may still take action to limit the effects of the Sexual Misconduct and prevent its recurrence to the extent warranted and practicable.

- (x) whether the University possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g., security cameras); and
- (xi) the applicability of any laws mandating disclosure.

The presence of one or more of these factors could lead the University to investigate the matter in accordance with this Policy. The Title IX Coordinator will inform the person requesting confidentiality if the University cannot ensure confidentiality.

Even if the University cannot take disciplinary action against the alleged perpetrator because of the request for confidentiality, to the extent possible and appropriate the University will take prompt and effective action to limit the effects of the alleged Sexual Misconduct and to prevent its recurrence, to the extent warranted and practicable. For instance, the University may impose a “no contact” order upon the alleged perpetrator or take other appropriate interim measures to ensure an individual’s safety even in the absence of a formal proceeding.

C. Other Reporting Options

- 1. Report to Law Enforcement.** An alleged victim of Sexual Misconduct may make a report to local law enforcement by dialing 911 or the University Police Department, who will take any immediate measures necessary to assure the alleged victim’s safety and assist with making a report to the appropriate local law enforcement agency.

A criminal investigation into the matter does not preclude the University from conducting its own investigation (nor is a criminal investigation determinative of whether Material Sexual Misconduct, for purposes of this Policy, has occurred). However, the University’s investigation may be delayed temporarily while criminal investigators are gathering evidence. In the event of such a delay, the University will take interim measures when necessary to protect the alleged victim and/or the University community.

- 2. Contacting the Office for Civil Rights.** Students or employees may also contact:

Office for Civil Rights
U.S. Department of Education
<http://www2.ed.gov/about/offices/list/ocr/index.html>
(215) 656-8541

D. INDIVIDUALS WITH DISABILITIES

The University will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations to participate in the procedures and remedies outlined in this Policy. Requests for accommodations for Students with disabilities should be made to Services for Students with Disabilities located in Nicholson Center and available by phone at (412) 397-4349. Requests for accommodations for employees with disabilities should be made to the Human Resources Department located in Revere Center and available by phone at (412) 397-6270.

ARTICLE IV. INVESTIGATION OF COMPLAINTS OF SEXUAL MISCONDUCT

A. OVERVIEW

- 1. Oversight.** The Title IX Coordinator will be responsible for overseeing the prompt, fair, and impartial investigation and resolution of Complaints filed with the University.
- 2. Conflicts.** If any administrator who has responsibilities under this Policy (a) is the Complainant or the Respondent (including, but not limited to, the Title IX Coordinator) in a particular matter, or (b) has any other conflict of interest with respect to the duties he or she would otherwise have in connection with a particular matter, then an appropriate University official will appoint another University administrator to perform such person's duties under this Policy in connection with such matter.
- 3. Timing.** The University will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The University's investigation and hearing, if any, regarding a Complaint (not including an appeal, if applicable) will generally be completed within 60 calendar days of the receipt of the Complaint, absent extenuating circumstances.

Any party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator may modify any deadlines included in this Policy as reasonably necessary under the circumstances.

- 4. Request Not to Pursue Complaint.** A Complainant may determine after filing a Complaint that he or she does not wish to pursue resolution of the Complaint through the University. The University takes such requests seriously. However, such individuals are advised that such requests may limit the University's ability to take action in response to a Complaint. Title IX requires the University to evaluate the request(s) that a Complaint not be investigated and resolved in the context of the University's commitment to provide a reasonably safe and non-discriminatory environment. In order to make such an evaluation, the Title IX Coordinator may conduct a preliminary investigation into the alleged Sexual Misconduct and may weigh the request(s) against the factors set forth in Article III, Section 2 of this Policy.

Even when the University is in receipt of a request not to pursue an investigation, Title IX requires the University to take reasonable action in response to the information known to it; thus, the University may take such measures and impose such discipline as deemed necessary by the Title IX Coordinator to limit the effects of the alleged Sexual Misconduct and to prevent its recurrence. Examples include providing increased monitoring, supervision, or security at locations where the misconduct allegedly occurred; providing training and education materials for Students and employees; revising and publicizing the University's policies on Sexual Misconduct; and conducting climate surveys regarding Sexual Misconduct.

- 5. Interim Measures.** During the Complaint, investigative or disciplinary processes, the Title IX Coordinator and the Vice President for Student Life and/or the Vice President for Human Resources, as appropriate, will take any interim measures necessary to protect the

Complainant and any witnesses. These measures may include, but are not limited to, the imposition of a “no contact” order upon, or the interim suspension of, the Respondent and/or providing residential, academic, employment, and/or transportation related accommodations to the alleged victim and/or any witnesses.

6. **Applicability of Procedures.** The investigation, hearing, and appeal included in Sections B of Article IV and Articles V and VI of this Policy apply to all cases where the Complainant or Respondent is a Student or employee of the University, except to the extent that the procedures outlined in this Policy conflict with the terms of any collective bargaining agreement to which the employee is subject. The University’s disciplinary authority may not extend to third parties who are not Students or employees of the University. The University may, therefore, modify its investigation and hearing procedures in the case of a third party Complainant or Respondent, while still taking appropriate measures to respond to an allegation of Sexual Misconduct against such third party.

B. THE INVESTIGATION

1. **The Title IX Coordinator’s Initial Determination.** Promptly upon receipt of a Complaint, the Title IX Coordinator will confirm whether the nature of the Complaint constitutes a potential violation of Title IX, VAWA, and/or this Policy and should, therefore, be investigated. If the Title IX Coordinator determines that the Complaint should be investigated, the Title IX Coordinator will promptly appoint an Investigation Team, as discussed in Section 2 below.

In the event that the Title IX Coordinator determines that an investigation of the Complaint should not be conducted, he or she will determine and document (in consultation, as necessary, with the Complainant, the Respondent, and other University administrators) the appropriate resolution of the Complaint and inform the parties of such resolution.

2. **Appointment of the Investigation Team; Advisors.** If the Title IX Coordinator determines that an investigation should be conducted, the Title IX Coordinator will promptly appoint an Investigation Team comprised of at least three faculty and/or staff members. The Title IX Coordinator will inform both the Complainant and the Respondent that an investigation is being conducted and will also inform each party of their ability to have one advisor of their choice accompany them to any investigative meetings or any hearing that is part of the Title IX / VAWA proceedings.

An advisor is an individual who provides support, guidance, or advice to a party. The advisor may be a parent, a member of the University community, or any other person (including an attorney). The advisor’s role is purely supportive. The advisor may not speak on behalf of the Complainant or Respondent in any meeting or hearing.

3. **The Investigation.** The Investigation Team will promptly begin its investigation, and will endeavor to complete its investigation within 30 calendar days of its appointment, including:
 - a. conducting interviews with the Complainant, the Respondent, and third-party witnesses (including expert witnesses, where applicable) and summarizing such interviews in written form; and
 - b. reviewing any other relevant information.

Throughout the investigation, the members of the Investigation Team will remain neutral. The Investigation Team should endeavor to obtain, where applicable and possible, the written consent of any third-party witnesses to the disclosure, as contemplated by this Policy, of any personally identifiable information contained in the Complaint, the Investigative Report, and/or any other documents, the disclosure of which is contemplated by this Policy in order to further the resolution of the Complaint. The Investigation Team will complete a written Investigative Report that includes items such as summaries of all interviews conducted, photographs, and descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question (the “Investigative Report”). The Investigative Report will include the charges, if any, that the Respondent should face and the Investigation Team’s conclusion as to whether the conduct at issue would, if proven to be true by a preponderance of the evidence, constitute Material Sexual Misconduct under this Policy. The Investigation Team will share the Investigative Report with the Title IX Coordinator, who will distribute it, concurrently, to the Complainant and the Respondent. All parties to whom the Investigative Report is distributed pursuant to this Policy must maintain it in confidence; the Investigative Report may only be disclosed as contemplated by this Policy.

In the event that a Complaint includes allegations that are also under review by law enforcement authorities, the Investigation Team will, upon request from law enforcement authorities, adjust the timing of the investigation so that it does not compromise the criminal investigation.

- 4. The Title IX Coordinator’s Evaluation of the Investigative Report.** The Title IX Coordinator will direct that the case will proceed unless it is clear from the Investigative Report that no reasonable grounds exist for believing that the conduct at issue would, if proven to be true, constitute Material Sexual Misconduct. The Title IX Coordinator will specify which allegations and, if applicable, which other, related alleged misconduct, will go forward for resolution under this Policy as outlined in Article V.

If the Title IX Coordinator finds no reasonable grounds to believe that the conduct at issue constitutes Material Sexual Misconduct, then the Title IX Coordinator will refer the matter to the Vice President for Student Life (if the Respondent is a Student) or the Vice President for Human Resources (if the Respondent is an employee) for investigation, response, and resolution in accordance with other University policies applicable to Student or employee misconduct. The Title IX Coordinator will promptly notify the parties of any such referral.

ARTICLE V. HEARING PROCEDURES

- A. Respondent’s Acknowledgement of Responsibility Prior to Hearing.** At any time prior to the date of his or her designated hearing, the Respondent may elect to acknowledge his or her actions and take responsibility for all of the allegations included in the Complaint. In such a situation, a Hearing Panel will be convened for the sole purpose of recommending sanctions to the Vice President for Student Life (if the Respondent is a Student) or the Vice President for Human Resources (if the Respondent is an employee), who may choose to implement or modify the sanctions in consultation with the Title IX Coordinator.

B. The Hearing. In the absence of the Respondent's acknowledgment of responsibility as described above, a Hearing Panel will conduct a hearing in which it will interview and question the Complainant, the Respondent, and any witnesses or other third parties whose testimony the Hearing Panel deems relevant.

1. Appointment of the Hearing Panel. Promptly following the Title IX Coordinator's receipt of the Investigative Report and the Title IX Coordinator's determination that case should proceed to a hearing, the Title IX Coordinator will appoint the members of the Hearing Panel, which will include at least three faculty and/or staff members. The Title IX Coordinator will designate one member of the Hearing Panel as the Chair of the Hearing Panel. The Title IX Coordinator will share the Complaint and the Investigative Report with the Hearing Panel and, if the Title IX Coordinator has determined that only a portion of the misconduct alleged in the Complaint justifies continuing to the hearing process, the Title IX Coordinator will specify which part(s) of the alleged misconduct will be the subject of the hearing. The Hearing Panel may confer with the Investigation Team to clarify any aspect of the Investigative Report prior to the hearing.

2. Notice of the Hearing. Within five calendar days of the appointment of the Hearing Panel, the Title IX Coordinator will provide a written notice of the date, time, and location of the hearing to the Complainant, the Respondent, and any witnesses or other third parties whose testimony the Hearing Panel deems relevant. The notices to the Complainant and the Respondent will include the names of the witnesses or other third parties that the Hearing Panel plans to call. If only a portion of the alleged misconduct will be subject the hearing process the Title IX Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the hearing and which part(s) of the alleged misconduct will be addressed pursuant to other University policies applicable to Student or employee misconduct.

3. Hearing Policies and Procedures.

a. Submission of Written Materials by the Parties. Within five calendar days of receipt of the notice of the hearing, the Complainant and the Respondent may provide the Title IX Coordinator with (i) a list of witnesses, if any, that they propose that the Hearing Panel call and a brief description of each proposed witness's connection to and/or knowledge of the issues in dispute, and (ii) a written statement of position. The Title IX Coordinator will promptly provide any written materials submitted by a party to the Hearing Panel but not to the other party.

b. Failure to Appear. If the Complainant or the Respondent fails to appear before the Hearing Panel if requested to do so, and such party was provided proper notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Panel will proceed to determine the resolution of the Complaint without the participation of such party.

c. Advisors. Both the Complainant and the Respondent may have one advisor of their choice accompany them to the hearing. An advisor is an individual who provides support, guidance, or advice to a party. The advisor may be a parent, a member of the University community, or any other person (including an attorney). The advisor's role is purely

supportive. The advisor may not speak on behalf of the Complainant or Respondent during the hearing.

- d. Evidentiary Matters.** The alleged victim and the Respondent will have an equal opportunity to present evidence during a hearing. Formal rules of evidence will not be observed during the hearing.

Evidence of the past sexual histories of the alleged victim and the Respondent will not be permitted at the hearing, with the following exceptions:

- (i) evidence regarding any past sexual history between the parties may be permitted, although past Consent does not necessarily imply present or future Consent;
- (ii) evidence is permitted to show that the alleged victim has in the past been formally disciplined by the University for falsely filing Complaints alleging Sexual Misconduct;
- (iii) evidence is permitted to show that the Respondent has in the past been either convicted in a criminal proceeding or formally disciplined by the University or another institution for Sexual Misconduct; and
- (iv) evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally charged with a violation of the Policy with respect to such conduct) may be permitted to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Misconduct at issue before the Hearing Panel, provided that (A) the Respondent has not been found “not responsible” by the University in a proceeding related to such sexual activity and (B) the Chair of the Hearing Panel has made written findings both that the evidence is reliable and trustworthy and that the conduct is sufficiently and substantially similar to the conduct at issue before the Hearing Panel to suggest a pattern of behavior.

e. Conduct of the Hearing.

- (i) **Generally.** The Hearing Panel will be responsible for asking questions of the parties and the witnesses and developing evidence through testimony. The alleged victim and the Respondent will not be permitted to question each other but may be permitted, at the discretion of the Chair of the Hearing Panel, to submit written questions for the Hearing Panel to ask on their behalf. The Chair of the Hearing Panel will resolve any questions concerning procedure or the admission of evidence or testimony (including the relevancy and reliability of the evidence and testimony). Members of the University community are expected to provide truthful testimony. While the Chair will exercise discretion regarding whether the Hearing Panel may consider particular evidence or testimony in its deliberations, please note that the hearing is not a courtroom proceeding, and the Chair is not bound by any rules of evidence or civil or criminal procedure.
- (ii) **Participation of the Complainant and the Respondent.** Either the Complainant or the Respondent may choose not to testify or appear before the Hearing Panel; however, either party’s exercise of that option will not preclude the Hearing Panel

from making a determination regarding the Complaint filed against the Respondent. Upon the request of either party, the Hearing Panel will make arrangements to increase such party's comfort level with the hearing process, such as placing a privacy screen between the parties or enabling the party to participate in the hearing via videoconference or closed circuit television.

4. Outcome

a. **The Decision of the Hearing Panel.** Following the conclusion of the hearing, the Hearing Panel will confer in private and by majority vote determine whether the evidence (including the information provided in and by the Investigative Report, the parties' written statements, if any, the evidence presented at the hearing, and the testimony of the parties and witnesses) establishes that it is more likely than not that the Respondent is responsible for Material Sexual Misconduct (i.e., a "preponderance of evidence" standard).

b. **Sanctions.**

(i) **Generally.** Sanctions for a finding of responsibility for Material Sexual Misconduct depend upon the nature and gravity of the misconduct, any record of prior discipline for Sexual Misconduct, or both. Sanctions may include, without limitation, in each case as deemed appropriate by the Hearing Panel, (i) for a Student Respondent, (A) mandated counseling, and/or educational sanctions, (B) disciplinary probation, (C) expulsion from campus housing, or (D) expulsion or suspension from the University, or (ii) for an employee Respondent, (A) a verbal or written reprimand, (B) compensation adjustments, (C) withholding a promotion or pay increase, (D) temporary suspension without pay, (E) reassigning employment, or (F) terminating employment.

The Hearing Panel will recommend sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. The Hearing Panel will forward its recommendations regarding sanctions to the Vice President for Student Life (if the Respondent is a Student) or the Vice President for Human Resources (if the Respondent is an employee), who may choose to implement or modify the sanctions in consultation with the Title IX Coordinator.

In the event that the Respondent is an employee who is a member of any union representing RMU employees, any Hearing Panel member who is a member of the same union shall recuse himself or herself from the discussion and determination of the sanctions recommended to be imposed upon the Respondent.

(ii) **Implementation of Sanctions.** Sanctions imposed are not effective until the resolution of any timely appeal pursuant to Section 5, below. However, if it is advisable in order to protect the welfare of the victim or the University community, the Hearing Panel and/or the Title IX Coordinator may recommend, and the Vice President for Student Life (in cases involving Student Respondents), or the Vice President for Human Resources (in cases involving employee Respondents) may

determine, that interim sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted.

- c. **Final Accommodations and Corrective Action.** In addition to any sanctions imposed on the Respondent, promptly following the conclusion of the hearing and the Hearing Panel's issuance of a determination of responsibility, the Title IX Coordinator will determine the final accommodations to be provided to the victim, if any, and the Title IX Coordinator will communicate such decision to the victim and, to the extent that it affects him or her, to the Respondent. Such accommodations may include, but are not limited to those listed in Article IV, Section 5 above.

The Title IX Coordinator will also take steps, where necessary, to prevent the further harassment of or Retaliation against the Complainant or third parties, such as informing them about how to report subsequent problems, following up with them to ensure that there are no subsequent problems, providing training for the University community, and arranging for the victim and/or the Respondent to receive appropriate counseling. The Title IX Coordinator will also, where appropriate, take steps to prevent the harassment of the Respondent.

The Title IX Coordinator will take prompt corrective action if the Complainant experiences Retaliation or is subjected to further Sexual Misconduct or if the original sanctions imposed on the Respondent are ineffective to protect the safety and wellbeing of the Complainant or other members of the University community. The Title IX Coordinator will also take reasonable steps to eliminate any hostile environment that has been created by the Sexual Misconduct, such as conducting training and disseminating informational materials. In taking the above-outlined steps, the Title IX Coordinator will make every reasonable effort to minimize the burden on the Complainant.

- d. **Final Outcome Letter.** Within one week following the conclusion of the hearing, the Title IX Coordinator will issue a written decision letter (the "Final Outcome Letter") concurrently to the Respondent and the Complainant. The Final Outcome Letter will set forth (i) the name of the Respondent, (ii) the violation(s) of this Policy for which the Respondent was found responsible, if any, (iii) the sanctions imposed on the Respondent, if any, (iv) the other steps, if any, that the University has taken to remedy any hostile environment that has been created by the Sexual Misconduct, and (v) a notice of the parties' right to appeal and the process for appealing. The Final Outcome Letter will also include a reminder of the prohibition on Retaliation. The letter to the Complainant will also set forth any additional remedies offered to the Complainant, but this information will not be shared with the Respondent.

When the Respondent is a Student, in order to comply with FERPA, the letter will not include information considered part of a Respondent's "education record" (as that term is defined by FERPA), such as information about sanctions that do not relate to the victim.

- e. **Confidentiality and Disclosure.** In order to comply with FERPA and Title IX and VAWA and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, documents prepared in anticipation of the hearing (including the Complaint, the Investigative Report, the notices of hearing, and the prehearing submissions referenced above) and documents, testimony,

or other information introduced at the hearing may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law.

If it is determined, however, that the Respondent is responsible for Material Sexual Misconduct, this Policy does not prohibit the further disclosure of the Final Outcome Letter by either the victim or the Respondent.

5. Appeals. The Complainant or the Respondent may appeal the Hearing Panel's determination regarding the Respondent's responsibility within 10 calendar days from the date of the Final Outcome Letter. Either party's disagreement with the sanctions imposed upon the Respondent in the event of a finding of responsibility is not sufficient grounds for an appeal.

The request for an appeal must be submitted in writing to the Title IX Coordinator and must (i) specify relevant evidence that was not available at the time of the investigation and/or hearing that would have significantly impacted the outcome of the hearing, or (ii) outline reasons that the appealing party considered the investigation and/or hearing process to be inadequate. The Title IX Coordinator will promptly inform the other party (i.e., the Complainant or the Respondent) of the filing of the appeal.

The Title IX Coordinator will designate an Appellate Officer, who shall be a member of the faculty or staff. The Title IX Coordinator will share the Complaint, the Investigative Report, and the Final Outcome Letter with the Appellate Officer. The Appellate Officer will review the evidence and the findings of the Investigative Team and the Hearing Panel and will make a determination (i) that the decision of the Hearing Panel should stand; or (ii) that an additional hearing should occur or evidence should be obtained. The Appellate Officer generally will make such determination within 14 calendar days of his or her appointment.

In the event that the Appellate Officer determines that an additional hearing should occur or additional evidence should be obtained, he or she will consult with the Title IX Coordinator and they shall, in their discretion, determine whether the same Investigation Team and/or Hearing Panel – or a new Investigation Team and/or Hearing Panel – should be convened for such purpose. The Title IX Coordinator will notify the Complainant and the Respondent concurrently of the decision or action of the Appellate Officer as well as the final outcome of the appeal.

ARTICLE VI. EDUCATION AND TRAINING

The University utilizes a range of campaigns, strategies, and initiatives designed to enhance awareness and prevention of Sexual Misconduct. Mandatory educational programs are provided to all incoming Students and employees, during new Student and new employee orientation and throughout an incoming Student's first semester. These programs and others offered on an ongoing basis are designed to enhance awareness and primary prevention, including the importance of bystander intervention, potential warning signs of abusive behavior, the relationship between alcohol and Sexual Misconduct, and the meaning of Consent. These programs also educate Students and other members of the University community about this Policy and our procedures for reporting and responding to Sexual Misconduct. All employees who interact with Students will receive annual training on these important topics. Additionally, any employee who is a member of the Investigation and Hearing Pool will receive annual, specialized training on issues related to Sexual Misconduct as well as the University's Sexual

Misconduct reporting, investigation, and adjudication procedures.

EXHIBIT A

RESOURCES AND SUPPORT SERVICES

Incidents of Sexual Misconduct are taken very seriously by Robert Morris University. Particularly, actions involving Sexual Assault are of great concern to the University. If you are a victim of Sexual Assault, the University's first priority is to help you to address your safety, medical needs, and emotional well-being. The University encourages you to take the actions summarized below, regardless of whether or not you choose to pursue criminal charges or file a Title IX or VAWA Complaint with the University.

Contact information for the resources discussed below is included in Section 5 of this Exhibit. Please note that most University faculty and staff members are "Required Reporters," as discussed in Article III of this Policy, and are required to report any information they receive about an alleged incident of Sexual Misconduct to the Title IX Coordinator. The chart included in Section 5 below identifies the RMU employees who are able to serve as confidential resources for alleged victims of Sexual Misconduct. It should be assumed that any individual who is not specifically identified as a confidential resource in that chart is a Required Reporter.

1. Ensure Your Physical Safety

You are encouraged to seek help from and report crimes to local law enforcement by dialing 911 or University Police at (412) 397-2424. University Police Officers are on duty 24 hours a day, seven days a week and can assist you in contacting local law enforcement, should you wish to file a criminal complaint, or arranging for transportation to the hospital, if necessary.

2. Seek Medical Assistance and Treatment

Options for medical care include the University's Student Health Services and Heritage Valley Sewickley Hospital. It is crucial to seek medical attention as soon as possible following a Sexual Assault in order to identify and treat any physical injuries, to prevent or treat sexually transmitted diseases, and to collect evidence. Heritage Valley Sewickley Hospital can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs). RMU's Student Health Services are available to you regardless of your health care coverage if you have been a victim of Sexual Assault.

If you choose to have an evidence collection kit (or "rape kit") completed, it is imperative that you do so within 72 hours. Even if you have not decided to file charges, it is advisable to have the evidence collection kit completed so that you can preserve the options of obtaining a protective order and/ or filing criminal charges at a later date. Heritage Valley Sewickley Hospital administers evidence collection kits. You may go directly to Heritage Valley Sewickley Hospital or be referred to the hospital by RMU Student Health Services.

In order to best preserve evidence for an evidence collection kit, it may be advisable to avoid showering, going to the bathroom, or brushing your teeth, eating, or drinking before the kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed if you have showered or bathed, although it is possible that some evidence may be compromised.

3. Obtain Emotional Support

The professionals at the Student Counseling Center can be an important source of support for students who are victims of Sexual Assault. They may also provide referrals to outside providers and can assist with contacting law enforcement, if you choose to file a criminal complaint. The Counseling Center's services are free of charge to students.

4. Report Misconduct

You are encouraged to report any incident of Sexual Misconduct, particularly Sexual Assault, to the University's Title IX Coordinator or other designated University individuals or offices as outlined in Article III of this Policy, even if you have filed a report directly with local law enforcement, so the University can investigate and respond to your complaint.

5. Resources and Contact Information

The below chart identifies a variety of resources, both on- and off-campus, that are available to alleged victims of Sexual Misconduct. **Please note that most University faculty and staff members are "Required Reporters," as discussed in Article III of this Policy, and are required to report any information they receive about an alleged incident of Sexual Misconduct to the Title IX Coordinator.** The below chart specifies which resources are able to maintain the confidentiality of reports and describes any limits on that confidentiality. **It should be assumed that any individual who is not specifically identified as a "Confidential Resource" in the below chart is a Required Reporter.**

Resource	Telephone Contact	E-Mail Address (if applicable)	Location	Confidential Resource?	Availability
Athletic Trainers					
Jason Daley, Asst. Athletic Trainer	(412) 397- 4982	daleyj@rmu.edu	Sewall Center	CONFIDENTIAL	Hours vary; Training Room weekdays, 10:00 a.m. – 6:00 p.m.
Tim Goldinger, Asst. Athletic Trainer	(412) 397- 4916	goldinger@rmu.edu	Joe Walton Stadium	CONFIDENTIAL	Same as above
Stacy Ogden, Asst. Athletic Trainer	(412) 397- 4981	ogden@rmu.edu	Sewall Center	CONFIDENTIAL	Same as above
Mike Vittorino, Head Athletic Trainer	(412) 397- 4983	vittorino@rmu.edu	Sewall Center	CONFIDENTIAL	Same as above

Resource	Telephone Contact	E-Mail Address (if applicable)	Location	Confidential Resource?	Availability
Campus Ministry	(412) 397-6483	campusministry@rmu.edu	Nicholson Center, Room 266	CONFIDENTIAL, IF reporting to a member of the clergy in his/her capacity as a pastoral counselor	Weekdays, 8:30 a.m. – 5:00 p.m. and by appt.
ComPsych Guidance Resources (EAP for Employees)	(800) 311-4327 (RMU ID No. MGR311)	N/A	N/A	CONFIDENTIAL Reports statistical information to the University, but does not share identifying information or details	24/7
Holly Harmon, LCSW, Counseling Center Director and Therapist	(412) 397-6863	harmonh@rmu.edu	Nicholson Center, Room 259	CONFIDENTIAL, except to the extent the alleged perpetrator poses a serious and immediate threat to the campus community	Weekdays, 8:30 a.m. – 5:00 p.m.
Tiffany Hartz, M.S., Therapist	(412) 397-5429	hartz@rmu.edu	Nicholson Center, Room 259	CONFIDENTIAL, except to the extent the alleged perpetrator poses a serious and immediate threat to the campus community	Weekdays, 8:30 a.m. – 5:00 p.m.

Dara Sakolsky, M.D., Ph.D., Psychiatrist	(412) 397- 5900	counseling@rmu.edu	Nicholson Center, Room 259	CONFIDENTIAL, except to the extent the alleged perpetrator poses a serious and immediate threat to the campus community	By appt. – must be a client of the Counseling Center
EthicsPoint Hotline (for Students or Employees)	(800) 963- 5593	See rmu.edu/EthicsPolicy for link to electronic report form; reporter may elect to remain anonymous	N/A	CONFIDENTIAL, if reporter so desires	24/7
Heritage Valley Sewickley Hospital	(412) 741- 6600	N/A	720 Blackburn Road, Sewickley, PA 15143	CONFIDENTIAL, if treated by a nurse/nurse practitioner NOT CONFIDENTIAL, if treated by a physician, who may be required by law to report sexual violence to local law enforcement	24/7
Human Resources Department	(412) 397- 6270	N/A	Revere Center	NO	Weekdays, 8:30 a.m. – 5:00 p.m.
Pittsburgh Action Against Rape	(866) END- RAPE	N/A	81 S. 19TH Street, Pittsburgh, PA 15203	CONFIDENTIAL	24/7

Residence Life / Community Advisors (CA)	(412) 397-5252 or 412-397-3291 (24/7 emergency no.)	reslife@rmu.edu	Washington Hall, Lower Lobby	NO	24/7 thru Community Advisor or 412-397-3291 (24/7 emergency no. for professional staff on duty)
Student Life, Maureen Keefer, Assistant Dean of Students	(412) 397-6484	keeferm@rmu.edu	Nicholson Center, Room 269	NO	Weekdays, 8:30 a.m. – 5:00 p.m.
Student Life, Vice President John Michalenko	(412) 397-6486	michalenko@rmu.edu	Nicholson Center, Room 270	NO	Weekdays, 8:30 a.m. – 5:00 p.m.
Student Health Services	(412) 397-6221	girimonti@rmu.edu	Jefferson Center	CONFIDENTIAL, if treated by a nurse/nurse practitioner NOT CONFIDENTIAL, if treated by a physician, who may be required by law to report sexual violence to local law enforcement	Mon. - Thurs. 8:30 a.m. - 6:00 p.m. Fri., 8:30 a.m. - 5:00 p.m.
Title IX Coordinator, Lisa H. Hernandez, Esq.	(412) 397-5986 (412) 397-5490 main office line	hernandezl@rmu.edu	School of Business, Rm. 125	NO	Weekdays, 8:30 a.m. – 4:30 p.m.
Title IX Caseworker/Project Specialist, Michelle Giacomino	(412) 397-5456	giacomino@rmu.edu	School of Business, Rm. 125	NO	Weekdays, 8:30 a.m.- 4:30 p.m.

University Police	(412) 397-2424		Barry Center	NO	24/7
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EXHIBIT B

FLOWCHART – RMU’S TITLE IX AND VAWA-RELATED INVESTIGATION AND HEARING PROCEDURES

**TIXC- Title IX Coordinator

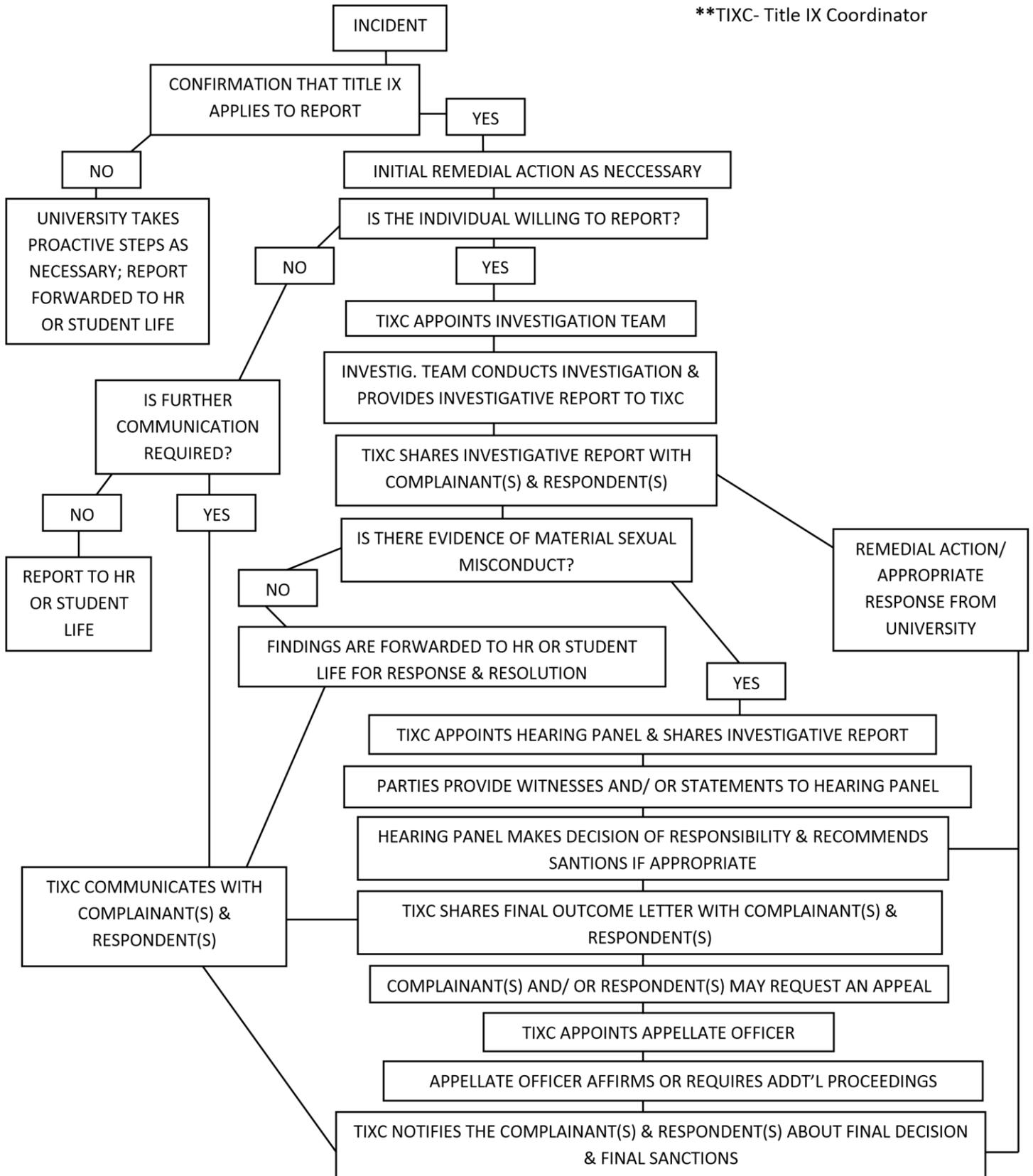


EXHIBIT C

DEFINITIONS

The capitalized terms used throughout this Policy have the meanings set forth below. Also, please refer to the additional applicable definitions under the Pennsylvania Crimes Code, which are included in Appendices I, II, and III below.

Appellate Officer. The “Appellate Officer” is a member of the Investigation and Hearing Pool who has been appointed by the Title IX Coordinator to review and determine the outcome of an appeal under this Policy.

Clery Act. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime occurring on and near their respective campuses.

Complainant. A “Complainant” is an individual who reports or files a Complaint. A Complainant may be someone other than the alleged victim of Sexual Misconduct.

Complaint. A “Complaint” is an allegation of Sexual Misconduct asserted against another party and reported to or filed with the University.

Consent. “Consent” must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

Dating Violence. “Dating Violence” means violence committed by a person:

- 1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- 2) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a) the length of the relationship,
 - b) the type of relationship, and
 - c) the frequency of interaction between the persons involved in the relationship.

Domestic Violence. “Domestic Violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of Pennsylvania.

FERPA. The Family Educational Rights and Privacy Act (“FERPA”) is a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 CFR Part 99. FERPA protects the privacy of student education records. FERPA grants to parents or eligible students the right to access, inspect, and review education records, the right to challenge the content of education records, and the right to consent to the disclosure of education records.

Final Outcome Letter. “Final Outcome Letter” is defined in Article V, Section B(4)(d).

Gender-Based Harassment. “Gender-based harassment” is Unwelcome Conduct of a nonsexual nature based on a student’s actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.

Hearing Panel. The “Hearing Panel” is the panel of three faculty and staff members assigned by the Title IX Coordinator to hear the evidence and determine the outcome with respect to a particular Complaint. The Hearing Panel will be comprised of members of the Investigation and Hearing Pool.

Investigation and Hearing Pool. The “Investigation and Hearing Pool” is a group of faculty and staff members who will receive annual training on the University’s obligations under Title IX, VAWA, and this Policy, as well as the conduct of Title IX and VAWA-related investigations and hearings. Members of the Investigation and Hearing Pool may be assigned by the Title IX Coordinator to serve as a member of the Investigation Team or the Hearing Panel, or as the Appellate Officer, in connection with a particular Complaint.

Investigation Team. The “Investigation Team” is the neutral fact-finding team of faculty and/or staff members assigned by the Title IX Coordinator to investigate a particular Complaint. The Investigation Team will be comprised of members of the Investigation and Hearing Pool.

Investigative Report. “Investigative Report” is defined in Article IV, Section B(3).

Material Sexual Misconduct. “Material Sexual Misconduct” is Sexual Misconduct² that is sufficiently serious to create a hostile environment that may deny or limit the victim’s ability to participate in or benefit from the University’s programs or activities. In order to determine whether Sexual Misconduct rises to the level of Material Sexual Misconduct, consideration will be given to a variety of factors related to the severity, persistence, or pervasiveness of the Sexual Misconduct, including: (1) the type, frequency and duration of the conduct, (2) the identity of and relationship between the alleged harasser and the alleged victim, (3) the number of individuals involved, (4) the location of the incident and the context in

² “Sexual Misconduct” includes Dating Violence, Domestic Violence, Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Sexual Harassment, and Stalking. The capitalized terms included in the preceding sentence are defined separately in this Exhibit.

which it occurred, and (5) the degree to which the conduct affected the ability of one or more individuals to participate in or benefit from the University's programs or activities.

Pre-Existing Relationship. "Pre-Existing Relationship" is defined in Article II, Section F.

Rape. "Rape" is the act of sexual intercourse or penetration (anal, oral or vaginal), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without Consent, including vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

Required Reporter. "Required Reporter" is defined in Article III, Section B(2).

Respondent. A "Respondent" is an individual who has been accused of committing Sexual Misconduct by the report or filing of a formal or informal Complaint.

Retaliation. "Retaliation" means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.

Sexual Assault. "Sexual Assault" means any actual, attempted, or threatened sexual act with another person without that person's Consent. Sexual Assault includes but is not limited to:

- 1) Rape and attempted Rape;
- 2) Intentional and unwelcome sexual touching (including disrobing or exposure), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without effective Consent, of a person's breasts, buttocks, groin, or genitals (or clothing covering such areas), or coercing, forcing, or attempting to coerce or force another to touch you, themselves, or a third party with any of these body parts or areas when such touching would be reasonably and objectively offensive;
- 3) Any sexual act in which there is force, violence, or use of duress or deception upon the victim;
- 4) Any sexual act perpetrated when the victim is unable to give Consent; and
- 5) Sexual intimidation, which includes but is not limited to:
 - a) Threatening, expressly or impliedly, to commit a sexual act upon another person without his or her Consent,
 - b) Stalking or cyber-stalking, and
 - c) Engaging in indecent exposure.

Sexual Exploitation. "Sexual Exploitation" occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include:

- 1) Prostituting another person;
- 2) Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- 3) Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and,
- 4) Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.

Sexual Harassment. "Sexual Harassment" is Unwelcome Conduct of a sexual nature, including but not limited to unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature, including rape, sexual assault, and sexual exploitation. In addition, depending on the facts, dating violence, domestic violence, and stalking may also be forms of sexual harassment.

Sexual Misconduct. "Sexual Misconduct" means any Unwelcome Conduct of a sexual nature, including any conduct or act of a sexual nature perpetrated against an individual without Consent. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by men or by women, and it can occur between people of the same or different sex. The University encourages reporting of all Sexual Misconduct. Sexual Misconduct includes but is not limited to: 1) Dating Violence; 2) Domestic Violence; 3) Gender-Based Harassment; 4) Sexual Assault; 5) Sexual Exploitation; 6) Sexual Harassment; and 7) Stalking.

Stalking. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) fear for his or her safety or the safety of others; or
- 2) suffer substantial emotional distress.

Student. A "Student" is any student who is registered at the University or enrolled at the University, regardless of immigration status, (a) at the time of the alleged Sexual Misconduct and (b) at the time a Complaint is filed.

Title IX Coordinator. The University's "Title IX Coordinator" is Lisa H. Hernandez, Esq., whose office is located in the School of Business Building, Rm 125. She may be contacted by phone at (412) 397-5968 or by e-mail at hernandezl@rmu.edu. The Title IX Coordinator has ultimate oversight responsibility for handling Title IX and VAWA-related Complaints and for identifying and addressing any patterns or systemic problems involving Sexual Misconduct. The Title IX Coordinator is available to meet with individuals who are involved with or concerned about issues or University processes, incidents, patterns, or problems related to Sexual Misconduct on campus or in University-related programs. All allegations involving Sexual Misconduct should be directed to the Title IX Coordinator or other designated University

individuals or offices as outlined in this Policy. The main line of TIX office (412) 397-5490 is also a valid way to reach the TIX Coordinator.

Unwelcome Conduct. Conduct is considered “unwelcome” if the target of the conduct did not request or invite it and considered the conduct to be undesirable or offensive. Unwelcome Conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome Conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome Conduct can involve persons of the same or opposite sex. Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that an individual may have welcomed some conduct does not necessarily mean that the individual welcomed other conduct. Also, the fact that an individual requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

APPENDIX I

APPLICABLE DEFINITIONS UNDER PENNSYLVANIA CRIMES CODE

In addition to the definitions identified in Exhibit C above, the following definitions are applicable to this Policy. The conduct described in each definition below is prohibited by this Policy as a form of Sexual Assault.

Each definition is pulled directly from Title 18 of the Pennsylvania Crimes Code; the section number (e.g., § 3121, § 3122, etc.) is also pulled directly from the Pennsylvania Crimes Code. The pertinent definitions are:

§ 3121. Rape.

(a) Offense defined.--A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

- (1) By forcible compulsion.
- (2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
- (3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.
- (4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.
- (5) Who suffers from a mental disability which renders the complainant incapable of consent.

...

(c) Rape of a child.--A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.

(d) Rape of a child with serious bodily injury.--A person commits the offense of rape of a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=21&subscn=0>

§ 3122.1. Statutory sexual assault.

(a) Felony of the second degree.--Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:

- (1) four years older but less than eight years older than the complainant; or
- (2) eight years older but less than 11 years older than the complainant.

(b) Felony of the first degree.--A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=22&subsctn=1>

§ 3123. Involuntary deviate sexual intercourse.

(a) Offense defined.--A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:

- (1) by forcible compulsion;
- (2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;
- (4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
- (5) who suffers from a mental disability which renders him or her incapable of consent; or
- (6) (Deleted by amendment).
- (7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

(b) Involuntary deviate sexual intercourse with a child.--A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.

(c) Involuntary deviate sexual intercourse with a child with serious bodily injury.--A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&t1=18&div=0&chpt=31§n=23&subsectn=0>

§ 3124.1. Sexual assault.

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&t1=18&div=0&chpt=31§n=24&subsectn=1>

§ 3125. Aggravated indecent assault.

(a) Offenses defined.--Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:

- (1) the person does so without the complainant's consent;
- (2) the person does so by forcible compulsion;
- (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;
- (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
- (6) the complainant suffers from a mental disability which renders him or her incapable of consent;
- (7) the complainant is less than 13 years of age; or
- (8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

(b) Aggravated indecent assault of a child.--A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.

Link:

<http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.031..HTM>

§ 3126. Indecent assault.

(a) Offense defined.--A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:

- (1) the person does so without the complainant's consent;
- (2) the person does so by forcible compulsion;
- (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (4) the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;
- (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
- (6) the complainant suffers from a mental disability which renders the complainant incapable of consent;
- (7) the complainant is less than 13 years of age; or
- (8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31§ion=26&subsctn=0>

§ 4302. Incest.

(a) General rule.--Except as provided under subsection (b), a person is guilty of incest, a felony of the second degree, if that person knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood.

(b) Incest of a minor.--A person is guilty of incest of a minor, a felony of the second degree, if that person knowingly marries, cohabits with or has sexual intercourse with a complainant who is an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood and:

(1) is under the age of 13 years; or

(2) is 13 to 18 years of age and the person is four or more years older than the complainant. (c) Relationships.--The relationships referred to in this section include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=43§ion=2&subctn=0>

APPENDIX II

STANDARD FOR PROBABLE CAUSE UNDER PENNSYLVANIA CRIMES CODE

While there is no distinct definition of “Domestic Violence” under the Pennsylvania Crimes Code, it should be noted that if a criminal complaint is made to law enforcement outside of the University, the following standard of probable cause will apply. NOTE: This definition is being provided for informational purposes only. This standard is different than the standard that applies to on-campus disciplinary matters, as set forth in this Policy.

§ 2711. Probable cause arrests in domestic violence cases.

(a) General rule.--A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats) or 2709.1 (relating to stalking) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term “family or household member” has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=27§n=11&subsectn=0>

“Family or household member.” Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

APPENDIX III

STALKING UNDER PENNSYLVANIA CRIMES CODE

In addition to the definitions identified in Exhibit C above, the following definitions are applicable to this Policy. The conduct described below is prohibited by this Policy as a form of Stalking.

This definition is pulled directly from Title 18 of the Pennsylvania Crimes Code, section 2709.1.

§ 2709.1. Stalking.

(a) Offense defined.--A person commits the crime of stalking when the person either:

- (1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or

(2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

(b) Venue.—

(1) An offense committed under this section may be deemed to have been committed at either the place at which the communication or communications were made or at the place where the communication or communications were received.

(2) Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

...

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Communicates.” To convey a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

“Course of conduct.” A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

“Emotional distress.” A temporary or permanent state of mental anguish.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=27§n=9&subsctn=1>