POLICY FOR THE PREVENTION OF AND RESPONSE TO SEX DISCRIMINATION, SEXUAL HARASSMENT, AND SEXUAL VIOLENCE AGAINST STUDENTS

To the extent that this Policy overlaps with the University’s Non-Discrimination, Anti-Harassment, and Anti-Retaliation Policy, this Policy will control in cases involving sex discrimination (to the extent described below), sexual harassment, and/or sexual violence against a student.

POLICY STATEMENT

This Policy is for the benefit of students at The Rockefeller University. The Rockefeller University is committed to maintaining an educational environment for students that is free from sex discrimination, sexual harassment, and sexual violence. The University does not discriminate on the basis of sex in its education programs and activities, and it is required by Title IX of the U.S. Education Amendments of 1972 not to discriminate in such a manner.

The University strongly encourages every member of our community who is a victim of, or has knowledge of, sex discrimination, sexual harassment, and/or sexual violence against a student to report that conduct as set forth below. The University is committed to responding to such reports promptly, with sensitivity for all concerned, and with fair and equitable process.

CONTROLLING LAW

Title IX of the U.S. Education Amendments of 1972, 20 U.S.C. §1681 et seq., provides:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

The federal government has determined that sex discrimination, sexual harassment, and sexual violence may create a “hostile environment,” thereby denying a victim of such conduct the benefits of an education program or activity.

Article 129-B of the New York Education Law also provides protections for students who are the victims of sexual assault, dating violence, domestic violence, and stalking, including the right to report the incident to the University or law enforcement, to be protected by the University from retaliation for reporting an incident, and to receive assistance and resources from the University.

DEFINITIONS

Sex Discrimination is inequitable treatment of an individual on the basis of the individual’s actual or perceived gender.
Sexual Harassment is unwelcome conduct of a sexual nature. It may include, but is not limited to: unwelcome sexual advances or requests for sexual favors; sexual jokes or innuendoes; verbal abuse of a sexual nature; commentary about an individual’s body, sexual prowess, or sexual deficiencies; leering or catcalls; inappropriate touching; insulting or obscene comments or gestures; display or circulation (including through email) in the workplace of sexually suggestive objects or pictures; or other physical, verbal, or visual conduct of a sexual nature that has the effect of creating a hostile environment.

Sexual Violence is an actual or attempted physical sexual act performed against a person’s will or without a person’s affirmative consent, including where the person is incapable of giving consent due to a disability or the use of drugs and/or alcohol.

Affirmative Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

Consent may be given initially but withdrawn at any time, and consent to one sexual act does not necessarily constitute consent to any other sexual act. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity, and consent cannot be given when it is the result of any coercion. When consent is withdrawn or can no longer be given, sexual activity must stop.

A Hostile Environment is created when prohibited conduct is sufficiently severe or pervasive as to limit or deny a student’s ability to participate in or benefit from the University’s educational programs or activities.

The Alleged Victim as used in this policy refers to a student who is a victim of sex discrimination, sexual harassment, and/or sexual violence by an Accused. A Complainant is an alleged victim who reports such conduct to the Title IX Coordinator or other responsible employees. A Reporting Individual is an individual who observed or has knowledge of and reports prohibited conduct.

INDIVIDUALS AND CONDUCT COVERED

This Policy covers any occurrence of sex discrimination, sexual harassment, and/or sexual violence against a student, regardless of whether the accused is a student, employee or third party, or whether the prohibited conduct occurred on or off campus. The University must address reported sex discrimination, sexual harassment, and/or sexual violence against a student whether the report is made by the alleged victim or a reporting individual.
The University also must ensure that a student who is the victim of sexual violence, dating violence, domestic violence, or stalking is afforded the protections outlined in the Students’ Bill of Rights Relating to Sexual Violence which appears at the end of this Policy, including the right to make a report to local law enforcement and to be protected from retaliation.

THE TITLE IX COORDINATOR

The Rockefeller University has designated as its Title IX Coordinator Virginia Huffman, Vice President, Human Resources. Virginia Huffman’s contact information is: Founders Hall, Room 103; tel: 212-327-7261; email huffman@rockefeller.edu.

The Title IX Coordinator oversees implementation of this University Policy and must be informed of all reports and complaints of sex discrimination, sexual harassment, or sexual violence against a student, even if the report or complaint was initially made to another individual or if the investigation will be conducted by another individual or office.

The Title IX Coordinator is responsible for:

- Activating the University’s Title IX fact-finding, hearing, and determination procedures;
- Evaluating confidentiality requests;
- Determining the resources required to conduct an investigation, if warranted;
- Conducting and/or managing an investigation and appeal, including designating other University employees or third parties to assist, as needed;
- Determining appropriate interim measures for a complainant, including providing support and counseling resources, and taking steps to protect public safety during the course of an investigation;
- Determining appropriate sanctions against an offender and remedies for the complainant;
- Enforcing sanctions with the assistance of University administrative leadership; and
- Recommending necessary changes to University policies or procedures, as needed.

CONFIDENTIALITY

Confidentiality will be maintained throughout the investigation of a complaint or report of sex discrimination, sexual harassment, and/or sexual violence consistent with reasonable investigation and appropriate corrective action. The University may share a complaint or report, only as needed, with those University personnel who have responsibility for the safety of the University community and, if required, with law enforcement. Counselors and advocates who may have been recommended to the
complainant by the University will be advised that they, too, must keep confidential a report of sex discrimination, sexual harassment, and/or sexual violence.

A complainant may request (1) that his or her name not be revealed to the accused, or (2) that the University not investigate or take action. Such a request should be strongly supported in cases of sexual harassment and/or sexual violence, although honoring the request may limit the University’s ability to respond fully to the incident. The Title IX Coordinator will determine whether the University can honor a request for confidentiality by a complainant or a reporting individual while still providing a safe and nondiscriminatory environment for all students, including the complainant. A request not to investigate or take action may not be honored if such action might put other individuals at risk.

**TITLE IX PROCEDURAL REQUIREMENTS**

A complaint of sex discrimination, sexual harassment, and/or sexual violence by or on behalf of a student should be reported to the Title IX Coordinator. Complaints also may be reported to the University’s Director of Security, who will provide the report to the Title IX Coordinator.

A complainant has the right to file a criminal complaint or to pursue his or her rights under Title VII of the Civil Rights of 1964, before, during, or after (i) reporting a Title IX complaint, or (ii) activating the University’s internal Title IX investigation or appeal process.

**A. Procedures for Responding to Complaints of Sex Discrimination**

Any complaint of sex discrimination alleged by a student – *i.e.*, alleged unfavorable treatment of a student on the basis of the student’s gender – shall be subject to the complaint procedures set forth in the University’s Non-Discrimination, Anti-Harassment, and Anti-Retaliation Policy, including prompt investigation and responsive action, if appropriate.

**B. Procedures for Responding to Complaints of Sexual Harassment and/or Sexual Violence**

1. An impartial investigation will be undertaken, taking into consideration any request by the complainant or reporting individual for confidentiality, in accordance with the following procedures:

   - The investigation may include fact-finding, a hearing, if appropriate, and any other decision-making processes useful in determining whether the sexual harassment and/or sexual violence occurred and created a hostile environment.
   - During the course of the investigation, the complainant and the accused must be afforded the same opportunities to present witnesses and evidence, to be represented by counsel, and to attend any hearings, although the complainant and the accused will not be required to be in the same room at the same time.
The applicable legal standard used in resolving the complaint is a “preponderance of the evidence,” which means that the finder(s) of fact concludes that it is more likely than not that sexual harassment and/or sexual violence occurred (or did not occur).

2. Prior to and during an investigation, the University will promptly take interim steps to ensure equal access to its education programs and activities and protect the complainant, as necessary, from the alleged conduct. The complainant also should receive periodic updates on the status of an investigation.

3. The complainant and the accused will be notified in writing of the outcome of the investigation as follows:
   - The complainant must be informed of whether the investigation resulted in a finding that the alleged conduct occurred and, if so, any remedies offered to the complainant, sanctions imposed on the offender as a consequence of the findings, and efforts by the University to eliminate any hostile environment and prevent its recurrence.
   - The accused should be notified of the same information as the complainant, but not information regarding any remedies offered to the complainant.

4. The activities described in Sections 1 and 3 above, should be completed, if practicable, within sixty (60) days of a complaint being received by the Title IX Coordinator.

5. The complainant or the accused may appeal the outcome of an investigation on the basis of alleged procedural error, previously unavailable relevant evidence that could significantly affect the outcome of a case, or sanction(s) being substantially disproportionate to the findings. There are no prescribed requirements regarding the appeal process other than that the same process should be followed whether the complainant or the accused seeks to appeal, and both parties should be notified about the outcome of the appeal. Any appeal should, however, be initiated promptly, and in any event within thirty (30) days of notice of the outcome of an investigation, and must be requested in writing to the Title IX Coordinator.

6. A separate process may be undertaken to identify actions necessary to address concerns about a hostile environment and to prevent the recurrence of sexual harassment and/or sexual violence.

**RETAIATION IS PROHIBITED**

The Rockefeller University prohibits retaliation against any individual who reports sex discrimination, sexual harassment, and/or sexual violence, or participates in an investigation of such reports. Retaliation against an individual for reporting sex
discrimination, sexual harassment, and/or sexual violence or for participating in an investigation of such a report will be subject to disciplinary action.

**AMNESTY POLICY FOR ALCOHOL AND/OR DRUG USE BY REPORTING INDIVIDUALS**

The health and safety of every student at the University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs at the time that sexual violence occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. A complainant or reporting individual who in good faith discloses any incident of sexual violence to University officials or law enforcement will not be subject to disciplinary action for violation of the University’s Substance Abuse Policy occurring at or near the time of the commission of the sexual violence.

**STUDENTS’ BILL OF RIGHTS CONCERNING RESPONSE TO SEXUAL VIOLENCE, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING**

All students have the right to:

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

More information concerning these rights and implementing procedures may be found at http://formspolicies.rockefeller.edu/getfile.php?type=Guideline&file=graduate_Guidelines_andImplementing_Procedure_for_Title_IX_Policy_pdf

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Questions regarding Title IX may be referred to the Title IX Coordinator or to the Office for Civil Rights (OCR) in the U.S. Department of Education.

Policy Adopted by EOG 09 29 15, as updated