

## **Title IX Policy + Procedure**

### **SEX-BASED HARASSMENT POLICY AND GRIEVANCE PROCEDURES**

#### **1. STATEMENT OF NONDISCRIMINATION**

Rocky Mountain College of Art + Design (RMCAD) is committed to providing equal access to educational and employment opportunities regardless of race, color, religion, national origin, physical or mental disability, pregnancy or related conditions, age, sex, sex characteristics, sexual orientation, gender identity or expression, ancestry, familial status, spousal affiliation, medical condition, military veteran status, or any other characteristic protected by local, state or federal law.

#### **2. SEX-BASED HARASSMENT POLICY STATEMENT**

RMCAD does not discriminate on the basis of sex in its educational programs and activities, including admissions and employment, as required by Title IX and its implementing regulations at 34 C.F.R. Part 106.

RMCAD shall promptly respond to and equitably investigate complaints regarding prohibited conduct that may violate this policy in order to eliminate, prevent, and remedy the adverse effects of such conduct within College-related programs or activities.

The following grievance procedures shall apply to all complaints, whether oral or written, of sex-based harassment, a form of sex discrimination meaning sexual harassment and other harassment on the basis of sex including quid pro quo harassment, hostile environment harassment, and the specific offenses of sexual assault, domestic and dating violence, stalking, and related retaliation in order to take action to address, prevent, and remedy sex-based discrimination.

RMCAD strictly prohibits retaliation against any individual who brings a good faith complaint under this policy or participates in any portion of an investigation. Retaliatory conduct violates not only College policy and Title IX but may also violate state and other federal law. While RMCAD shall not tolerate making an intentionally false complaint, simply because the complaint is found to not be a violation of this policy does not necessarily mean the complaint was made in bad faith.

Individuals that believe they have been the victim of retaliation should promptly report the misconduct to the Title IX Coordinator or the Office of the President.

#### **3. RMCAD'S TITLE IX COORDINATOR**

RMCAD's Head of Compliance serves as the institution's Title IX Coordinator and coordinates RMCAD's compliance with Title IX. All reports of potential violations of this policy, including all oral or written complaints made to an employee, agent or other person authorized by RMCAD to provide an aid, benefit, or service under RMCAD's education programs or activities who are not designated as confidential employees (Confidential Resources), should be made to RMCAD's Title IX Coordinator. Confidential Resources who receive oral or written complaints are required to maintain those communications as privileged and confidential. Accordingly, Confidential Resources should not and cannot report potential violations of this policy when acting within the scope of their duties.

The Title IX Coordinator's contact information is as follows:

Jenna Langer  
Head of Compliance

1600 Pierce St.  
Lakewood, CO 80214  
303-753-6046  
jlanger@rmcad.edu

In addition to RMCAD's Title IX Coordinator, College personnel have been designated to assist in the implementation of this policy and grievance procedure. All employees and staff shall receive Title IX training, including information on RMCAD's obligation to address sex discrimination, the scope of conduct constituting sex discrimination, the definition of sex-based harassment, and all applicable notification and information requirements. In addition to the foregoing, all members of the Title IX Team shall also receive Title IX training on the investigation and grievance process, how to serve as an impartial member, the meaning and application of the term "relevant" in relation to questions and evidence, the information resolution process, and the specific responsibilities of their positions.

Inquiries regarding the application of RMCAD's Title IX Policy may be referred to the Title IX Coordinator, the U.S. Department of Education, Office for Civil Rights, or both.

The U.S. Department of Education, Office for Civil Rights' contact information is as follows:  
U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
OCR Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
OCR Hotline: (800) 421-3481

#### 4. SCOPE OF THIS POLICY

This policy governs the conduct of students, faculty, and staff, who are members of RMCAD community as well as persons who participate or attempt to participate in RMCAD's education programs or activities. Sex-based harassment complaints must include conduct that occurred within the context of RMCAD's educational programs or activities. This may extend to certain off-campus locations, where RMCAD has substantial control over the Parties, such as College-recognized activities and College-sponsored academic conferences.

RMCAD may, but is not obligated to, dismiss sex-based harassment claims under this policy for any of the following reasons:

- a. RMCAD is unable to identify the Respondent after taking reasonable steps to do so;
- b. The Respondent is not participating in RMCAD's education programs or activities and is not employed by RMCAD;
- c. The Complainant voluntarily withdraws any or all allegations in the complaint, the Title IX Coordinator declines to initiate a complaint under 34 C.F.R. Part 106, Section 106.44(f)(1)(v), and RMCAD determines that without the Complainant's withdrawn allegations, the conduct remaining, if any, would not constitute sex discrimination under this policy or Title IX; or
- d. RMCAD determines that the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under this policy or Title IX.

However, this does not prevent RMCAD from taking action to address the dismissed claims. RMCAD shall take all complaints of misconduct and discrimination seriously and investigate the matter, which may occur through RMCAD's Discrimination Grievance/Complaint Procedures.

## 5. PROHIBITED CONDUCT

Prohibited conduct defined in this policy can be committed by any individual, regardless of their gender. Prohibited conduct can occur between individuals of the same or different gender, gender identification, gender expression, or sex characteristics. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships. When RMCAD determines whether alleged conduct violates this policy, it shall consider all of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred.

Sex-based harassment is a violation of Title IX and shall not be tolerated at RMCAD:

- a. Quid pro quo harassment means an employee, agent, or other person authorized by RMCAD to provide an aid, benefit or service under RMCAD's education programs or activities explicitly or impliedly conditioning the provision of such an aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
- b. Hostile environment harassment means unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from RMCAD's education programs or activities. Whether a hostile environment has been created is a fact-specific inquiry which includes consideration of the following:
  - (i) The degree to which the conduct affected the Complainant's ability to access the recipient's education programs or activities;
  - (ii) The type, frequency, and duration of the conduct;
  - (iii) The Parties' ages, roles within RMCAD's education programs or activities, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;
  - (iv) The location of the conduct and the context in which the conduct occurred; and
  - (v) Other sex-based harassment in RMCAD's education programs or activities; or
  - (vi) Specific offenses (see below).

Sex-based Harassment is deemed especially serious when submission to or rejection of such conduct is made implicitly or explicitly a term or condition of instruction, employment, or participation in any College programs or activities; or submission to or rejection of these behaviors by an individual is used as a basis for evaluation in making academic or personnel decisions.

### c. Specific Offenses:

- (i) Sexual assault, which means a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- (ii) Dating violence, which means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship;
- (iii) Domestic violence, which means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic violence or family violence laws of the state of Colorado or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the state of Colorado;

- (iv) Stalking, which means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

## 6. TERMINOLOGY

The following terms are used within this policy and are provided here for clarity:

- a. Consent means intelligent, knowing, and voluntary agreement to engage in mutually agreed upon sexual activity, and does not include coerced submission.
  - (i) Consent cannot be gained by force, by ignoring or acting in spite of the objections of another.
  - (ii) Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
  - (iii) Consent is not the lack of resistance; there is no duty to fight off a sexual aggressor.
  - (iv) Consent can be withdrawn at any time, as long as the withdrawal is clearly communicated by the person withdrawing consent through words or actions.
  - (v) A person shall not knowingly take advantage of another person who has an intellectual or physical disability, who is incapacitated by the use of drugs or alcohol, or who is not conscious or awake, and thus is not able to give consent as defined above.
  - (vi) A person shall not physically or verbally coerce another person to engage in any form of sexual activity to the end that consent as defined above was not given.
  - (vii) Certain states have designated a minimum age under which a person cannot give consent. In the state of Colorado, the age of consent is 18 years old.
- b. Complainant refers to the individual(s) who has been the subject of prohibited conduct.
- c. Respondent refers to the individual(s) who has been accused of prohibited conduct.
- d. Advisor refers to the individual who supports either the Complainant or Respondent in the grievance procedures of this policy. For example, this person may be a friend, parent, spouse, colleague, attorney, etc. The Advisor may accompany the respective Party to any meetings or proceedings; however, the Advisor may not actively participate in the grievance procedure, including speaking on behalf of the Party, and shall be present only as a support person for the involved Party.

## 7. PRIVACY AND CONFIDENTIALITY

Any investigation related to a complaint under this policy shall be conducted impartially and with respect for the privacy and confidentiality requests of all individuals involved, to the extent possible under the circumstances.

In some circumstances, the reporting responsibilities of College employees, or RMCAD's responsibility to investigate, may conflict with the privacy or confidentiality preferences of those involved. All individuals are encouraged to familiarize themselves with their options and responsibilities, and make use of Confidential Resources, if applicable, in determining their preferred course of action.

Requests for confidentiality or use of anonymous reporting may limit RMCAD's ability to conduct an investigation.

### a. Confidential Resources

Confidential resources are not obligated to report information that is provided to them. This allows individuals to explore their options in a non-pressured environment while they make informed decisions. An individual who is not prepared to make a report, or who may be unsure how to label what happened, but still seeks information and support, is strongly encouraged to contact a Confidential Resource.

Internal Confidential Resources include:

The Director of Counseling and Student Mental Health Counselors  
Phone: 303.225.8573  
Rotunda Building  
counselor@rmcad.edu

External Confidential Resources include:

The Blue Bench (Formerly RAAP)  
Hotline: 303.322.7273  
Spanish: 303.329.0031  
TTY: 303.329.0023  
www.thebluebench.org  
Located in Denver. Counties served include: Denver, Jefferson, Douglas, Adams, Arapahoe, Elbert, Broomfield, Gilpin, and Lincoln.

Colorado Coalition Against Sexual Assault (CCASA)  
1330 Fox Street, Suite 2  
PO Box 40350  
Denver, CO 80204  
Phone: 303.839.9999

National Sexual Assault Hotline (RAINN)  
Phone: 800.656.HOPE  
www.rainn.org

National Domestic Violence Hotline  
Phone: 800.799.7233  
www.thehotline.org

Employee Assistance Program (for employees of Rocky Mountain College of Art + Design)  
ComPsych  
Call: 888.628.4824 or visit [www.GuidanceResources.com](http://www.GuidanceResources.com)  
(username: LFGsupport password: LFGsupport1)

RMCAD has an obligation to make reasonable efforts to investigate and address conduct prohibited by this policy. College community members who have the authority to take action or who have responsibility for administrative leadership, teaching, or advising, including all faculty members, instructors, and members of RMCAD management, are not Confidential Resources and are required to notify the Title IX Coordinator of suspected violations and cannot guarantee the confidentiality of a complaint or report under this policy.

b. Use of Discretion

Individuals involved in investigations or disciplinary proceedings under this policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, Complainants and Respondents are not restricted from discussing and sharing information with others who may support or assist them in presenting evidence.

c. Privacy

RMCAD shall take all reasonable steps to exercise discretion and protect the privacy of those involved in a complaint. However, RMCAD has an obligation to make reasonable efforts to investigate and address complaints or reports of violations of this policy. In all such proceedings, RMCAD shall take into consideration the privacy of the Parties to the extent possible while also providing a safe, non-discriminatory environment for all applicants, students and employees.

Any additional disclosure of information related to the complaint or report may be made if consistent with the Family Educational Rights and Privacy Act (FERPA), or Title IX requirements.

d. Release of Information

In accordance with the Clery Act, the Security department may issue a timely notification if it becomes aware of a serious and continuing threat to the campus community. The Security department may also be required to publicly disclose a reported incident of sexual misconduct in the daily crime log or Annual Security Report. At no time shall RMCAD release the name or other personally identifiable information of the Complainant to the general public without the express consent of the Complainant or as otherwise permitted or required by law.

8. REPORTING A VIOLATION OF THIS POLICY

In emergency situations, if there is a suspected crime in progress, or imminent or serious threat to the safety of anyone, immediately contact the authorities by dialing 911. If you are using a campus phone, you must dial 9-9-1-1 for the call to go through. On campus, always call the Security department at 303-567-7271 after calling 9-1-1.

In non-emergency situations, all members of the RMCAD community are encouraged to report any suspected violation of this policy to the Title IX Coordinator. (Members of the RMCAD community may consider consulting a Confidential Resource, as appropriate, prior to making a report to the Title IX Coordinator). All faculty members, lab specialists, and members of RMCAD management with the authority to take action or who have responsibility for administrative leadership, teaching, or advising must promptly report suspected violations of this policy to the Title IX Coordinator. A Title IX complaint can be filed by completing RMCAD's *Sexual Harassment Formal Complaint Form* or by contacting the Title IX Coordinator or Deputy Title IX Coordinators.

The *Sexual Harassment Formal Complaint Form* may be found on the website at: <https://www.rmcad.edu/policies-and-guidelines/title-ix/>

The Title IX Coordinator's contact information is as follows:

Jenna Langer  
Head of Compliance  
1600 Pierce St.  
Lakewood, CO 80214  
303-753-6046  
jlanger@rmcad.edu

Additional Person to Report to in Event Conflict with the Coordinator:

Neely Patton  
Vice President of Institutional Effectiveness  
1600 Pierce St.  
Lakewood, CO 80214  
720.556.0438

npatton@rmcad.edu

Applicants, students, or employees may also make verbal complaints to any of the above individuals.

RMCAD students or employees may also submit complaints to RMCAD Resolve:

<https://rmcad.zendesk.com/auth/v2/login>

Applicants may also submit complaints through the Public Title IX Complaint Form:

<https://docs.google.com/forms/d/e/1FAIpQLSeADRpVZOUeFkhCbFP7S06Vc5gxYz9ylQHKaMwtGr7-k1r4sg/viewform>

In cases of sex-based harassment that may also constitute criminal behavior (e.g., sexual assault, dating violence, domestic violence, and/or stalking), the individual may, simultaneously, file a complaint with local law enforcement authorities. RMCAD's Security department is available to support individuals who wish to file a complaint with local law enforcement.

Local law enforcement contact information is as follows:

Lakewood Police Department  
445 S Allison Pkwy  
Lakewood, CO 80226  
Phone: 303.987.7111

The Title IX Coordinator may also notify local law enforcement in cases that may constitute criminal behavior. RMCAD shall not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own investigation and shall take immediate steps to protect the student or employee in the educational or employment setting.

Complaints of sex-based harassment may also be made to the U.S. Department of Education, Office for Civil Rights:

U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
OCR Email: OCR@ed.gov  
OCR Hotline: (800) 421-3481

Anyone making a report of a potential violation of this policy may:

- a. Request supportive measures from the Title IX Coordinator;
- b. File a formal, written complaint with the Title IX Coordinator, which shall invoke RMCAD's internal grievance procedures outlined herein;
- c. Request the assistance of the Security department in filing a criminal complaint and preserving physical evidence; and/or
- d. Contact local law enforcement to file a criminal complaint.

An individual may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue an internal complaint and a criminal complaint).

## 9. PRELIMINARY INVESTIGATION AND SUPPORTIVE MEASURES

If RMCAD receives a complaint or otherwise becomes aware of conduct that may violate this policy, the Title IX Coordinator shall conduct a preliminary investigation to assess the nature and

circumstances of the report and take prompt and effective action to protect those involved and RMCAD community. This includes providing non-disciplinary, non-punitive supportive measures and remedies pending a Formal Investigation, if appropriate and as reasonably available.

The Title IX Coordinator(s), after consultation with appropriate college personnel, as needed, may take supportive action that they deem appropriate to restore or preserve equal access to RMCAD's educational programs and/or activities without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or RMCAD's educational environment or to deter violations of this policy. Supportive measures may include, but are not limited to:

- a. Imposing a "no-contact" order, which shall prohibit communication between the Parties involved, including in person, through third parties, or via electronic means;
- b. Directing appropriate College officials to alter academic or work schedules; and/or
- c. Imposing interim probation and/or suspension pending the completion of the Formal Investigation.

Supportive measures are individualized based on the information gathered by the Title IX Coordinator(s), after consultation with appropriate College personnel. Supportive measures are available whether a formal complaint is filed with the Title IX Coordinator or not. RMCAD shall take all necessary steps to protect the Complainant's identity when implementing supportive measures unless the Complainant's identity is necessary in order to provide the supportive measure.

When a decision is reached to initiate a supportive measure that impacts a Respondent, the Title IX Coordinator(s) shall notify the Respondent in writing. In the case of an interim probation and/or suspension, RMCAD shall assess the Respondent's imminent threat to the physical health or safety of the RMCAD community. If RMCAD determines that an interim probation and/or suspension is warranted, the Respondent has the opportunity to appeal the decision by writing a formal appeal to the Title IX Coordinator within three (3) days of the written notification of the interim probation and/or suspension. The Title IX Coordinator shall review the safety and risk analysis used to make the determination and either confirm or reverse RMCAD's decision to implement the interim probation and/or suspension. The Title IX Coordinator's decision in this matter is final.

Every effort shall be made to avoid depriving a student of his or her access to educational programs and activities, while also balancing the safety of the RMCAD community. Violation(s) of the Title IX Coordinator(s)' directives and/or administrative actions may lead to additional sanctions.

A determination that a Formal Investigation under the grievance procedure is not necessary does not preclude RMCAD from taking appropriate steps to eliminate, deter, remedy, or address prohibited or otherwise disruptive conduct. While the conduct reported to the Title IX Coordinator may not violate this policy, it may be a violation of student conduct or employee conduct policies and shall be referred to the appropriate College administrators as needed.

#### 10. VIOLATIONS OF OTHER COLLEGE POLICIES

In the situation when an initial assessment or investigation under this policy identifies additional related possible violations of College policy (other than violations of Sex-based Harassment as described in this policy) by the same Parties that would normally be handled through the student or employee conduct processes, the Title IX Coordinator shall refer those potential conduct violations to the appropriate College personnel for investigation and adjudication.

#### 11. INFORMAL RESOLUTION PROCESS

RMCAD offers an informal resolution process as an alternative to the Formal Investigation process. This informal proceeding focuses on conciliation rather than culpability and therefore does not involve a sanctioning process. In the informal resolution process, both Parties must agree in writing to engage



in the Informal Resolution Process and shall be asked to resolve the problem with the mediation of a trained College official.

Upon the filing of the *Sexual Harassment Formal Complaint Form*, the Title IX Coordinator(s) shall attempt to intervene in order to reach a satisfactory resolution between the individuals directly involved. The Informal Resolution process may be an appropriate process depending on the conduct alleged to have been violated. The Informal Resolution process may be chosen at the discretion of the Parties and is not mandatory. Either Party may choose to end the Informal Resolution process at any time and pursue the Formal Investigation process. The Informal Resolution process is not available for sex-based harassment complaints concerning sexual violence or when an employee is alleged to have sexually harassed a student.

If informal attempts to resolve the complaint are unsuccessful, or if the Title IX Coordinator believes an informal procedure is inappropriate, the Formal Investigation process can be utilized at any time.

Upon receipt of a request to engage in the Informal Resolution process, the Title IX Coordinator, or his/her designee, may meet with the Parties and their respective advisers separately, together, or both, and may permit both Parties to present evidence. The purpose of the meetings is to clarify issues and resolve the complaint.

If meeting resolves the complaint, a conciliation agreement, stipulating the terms of the resolution, shall be signed by both Parties as mutually agreed upon terms. Each Party shall be simultaneously given a copy of the final signed agreement.

If the conciliation process is not successful, resolution of the complaint shall follow the Formal Investigation and Grievance Procedure described herein, if appropriate, or the applicable student or employee conduct process.

## 12. FORMAL INVESTIGATION AND GRIEVANCE PROCEDURE

### a. Purpose of Formal Investigation and Grievance Procedure

The purpose of the Formal Investigation and Grievance Procedure is to determine, among other things, the following:

- (i) Whether a violation of the Title IX Policy has occurred; and
- (ii) Whether there is an ongoing risk of harm or further prohibited conduct, and if so, to take steps to eliminate and prevent its recurrence.

### b. Determination of Undertaking a Formal Investigation

Upon receipt of a complaint alleging a violation of this policy, the Title IX Coordinator(s) shall assess the circumstances of the complaint, including the preliminary investigation and related information, and contact the Complainant to determine their desired outcome. The Title IX Coordinator(s) shall provide the Complainant with this policy, including information regarding supportive measures, available resources, and the resolution and investigation processes. If the Complainant chooses to pursue a Formal Investigation, the Respondent shall be notified of the investigation, supportive measures, available resources, and their rights regarding the process. Both Parties shall be sent a Notice of Allegations letter.

If the conduct alleged in the formal complaint would not constitute sex-based harassment as defined under this policy, then the Title IX Coordinator may dismiss the formal complaint and forego the Formal Investigation and Grievance Procedure of this policy. However, that does not preclude RMCAD from taking steps to address the conduct under student or employee conduct policies.

Additionally, the Title IX Coordinator has the discretion to consolidate multiple complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others.

c. Grievance Process Timeline

RMCAD shall work to complete a Formal Investigation promptly upon receiving a complaint or otherwise becoming aware of the alleged prohibited conduct. In addition, during the course of the investigation, RMCAD may need to delay the grievance process for good cause, which may include concurrent law enforcement activity, the need for language assistance, or disability accommodations. RMCAD shall take all reasonable efforts to apprise all Parties of the progress of the investigation.

d. Notice of Allegations

Upon receipt of a formal complaint, the Title IX Coordinator shall promptly advise the Complainant and Respondent of the allegations in writing (Notice of Allegations). The Notice of Allegations shall include:

- (i) the identities of the Parties involved (if known);
- (ii) the specific College policy allegedly violated;
- (iii) the exact conduct allegedly constituting the potential violation;
- (iv) the date and location of the alleged incident (if known);
- (v) a statement that retaliation is prohibited;
- (vi) a statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence;
- (vii) a statement that the Respondent is presumed not responsible for the alleged conduct until a determination has been made at the conclusion of the grievance process and prior to the determination, the Parties shall have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker; and
- (viii) that RMCAD's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The Notice of Allegations shall also include a description of the grievance process as outlined in this Policy, and specifically notify the Complainant and Respondent of their right to have an advisor of their choice.

However, to the extent RMCAD has reasonable concerns for the safety of any person as a result of providing the notice, RMCAD may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

e. Right to an Advisor

Both Parties (Complainant and Respondent) have the right to an advisor of their choice (a parent, friend, mentor, attorney, etc.) who may accompany them to meetings and proceedings with College personnel during the course of the investigation.

f. Assigning an Investigator

When a determination is made to proceed with a Formal Investigation, the Title IX Coordinator shall assign an investigator(s) ("the Investigator"). This individual must be trained in Title IX laws and regulations, and must not have a conflict of interest or bias for or against the Complainant or Respondent, or complainants or respondents generally.

g. Cooperation

All College faculty, staff, and students are expected to cooperate fully in the investigation process.

h. Opportunity to Participate

RMCAD is responsible for gathering evidence during an investigation. However, the Complainant and the Respondent shall have an equal opportunity to present witnesses and other evidence. In addition, the Parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations in the formal complaint. The Parties have the right to request that the Investigator meet with relevant witnesses and evaluate relevant documentation or other evidence.

If a Party is invited or expected at an investigative interview or other meeting, the Investigator shall provide written notice of the date, time, location, participants, and purpose of the interview or meeting to that Party with sufficient time for the Party to prepare or participate.

i. Evidentiary Determinations

The Investigator has broad discretion in determining whether an offered witness or documentary evidence would be relevant or helpful to a determination. For example, some reasons an Investigator might decline to speak to an offered witness include:

- (i) there is not a sufficient basis that the person could have relevant information to the factual determination;
- (ii) the information to be solicited would be repetitive; and
- (iii) confidentiality concerns balanced against the importance of the information.

Similarly, some reasons that an Investigator might decline to seek or review documentary evidence include:

- (iv) RMCAD does not have the expertise to consider scientific evidence;
- (v) the information is repetitive;
- (vi) cost considerations balanced against the importance of the information; and
- (vii) confidentiality concerns balanced against the importance of the information.

However, the Investigator shall exclude the following types of evidence, and questions seeking that evidence, as impermissible regardless of whether they are relevant:

- (i) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (ii) A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless the recipient obtains that Party's or witness's voluntary, written consent for use in the recipient's grievance procedures; and
- (iii) Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Local police and legal counsel may be consulted regarding evidence admissibility and the outcome of related legal proceeding.

j. Investigative Report

For an investigation of a complaint of sex-based harassment, the Investigator shall summarize the relevant evidence in a written, draft Investigative Report. The Investigator shall send to each Party (and their respective advisors if applicable), the draft Investigative Report including all evidence directly related to the allegations stated in the formal complaint in electronic format/hard copy. Each Party shall have an equal amount of time and at least ten (10) days to review the evidence to identify additional witnesses or sources of information, reconcile conflicts in information, and submit a written response to the record of evidence. The Investigator shall consider a Party's written response to the record of evidence before issuing the Final Investigative Report.

After both Parties have had the opportunity to respond to the record of evidence, the Investigator shall issue the Final Investigative Report. The Investigator shall send each Party (and their respective advisors if applicable) the Final Investigative Report within ten (10) business days of its completion.

k. Responsibility Determination

Unless the Parties have agreed to an Informal Resolution, after completion of the Final Investigative Report, the Respondent's responsibility shall be determined by a panel of decision-makers. The panel of decision-makers shall be provided with the Final Investigative Report and any related materials.

- (i) Appointment of Panel: The Title IX Coordinator shall assign a three-person panel of decision-makers. Each individual member of the panel must not have a conflict of interest or bias for or against the Complainant or Respondent, or complainants or respondents generally. The panel can, but is not required to, include the Investigator as a member. The panel shall include representatives from different departments in the College.
- (ii) Questioning Parties and Witnesses: The panel of decision-makers and/or the Investigator shall question the Parties and witnesses during meetings with a Party or witness to aid in evaluating allegations and assessing credibility to the extent a Party's or witness's credibility is both in dispute and relevant to evaluating the complaint.
  - a. Each Party shall be allowed to propose questions that the Party wants asked of any Party or witness to be asked by the panel of decision-makers during one or more individual meetings, including follow-up meetings, with a Party or witness. Follow-up questions may be in the form of written questions and responses in lieu of a meeting. Whether a follow-up meeting(s) is required is at the sole discretion of the panel of decision-makers.
  - b. The panel of decision-makers shall determine whether a question is relevant and not otherwise impermissible prior to the question being posed to the Party or witness responding. Any decision to exclude a question as not relevant or otherwise impermissible must be explained.
- (iii) Refusal to Respond and Inferences Based on Refusal: The panel of decision-makers may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed relevant and not impermissible. The panel of decision-makers must not draw an inference about whether sex-based harassment occurred based solely on a Party's or witness's refusal to respond to such question.
- (iv) Recording: Each Party shall be provided with an audio or audiovisual recording or transcript of the meeting(s) and given enough time for the Party to have a reasonable opportunity to propose follow-up questions.

Upon completion of the questioning and investigation, the panel of decision-makers shall make a determination of responsibility. The panel of decision-makers must apply the *Preponderance of the Evidence* standard in reaching the determination. This means that the determination of responsibility is based on the evidence that there is a greater than 50% chance that the claim is true.

The panel of decision-makers must issue a written determination of responsibility simultaneously to both Parties. The written determination of responsibility must include:

- (i) the allegations potentially constituting sex-based harassment;
- (ii) a description of the procedural steps RMCAD has taken in reaching the responsibility determination, including notifications to the Parties, interviews with the Parties and witnesses, and methods used to gather evidence;
- (iii) findings of fact supporting the determination;
- (iv) conclusions regarding the application of this policy to the facts;
- (v) a statement of responsibility and related sanctions imposed on the Respondent for each allegation;
- (vi) a statement of whether RMCAD shall offer any remedies to the Complainant;
- (vii) to the extent appropriate, other students RMCAD identified to be experiencing the effects of the sex-based harassment; and
- (viii) a description of RMCAD's appeal procedures.

The content of the written determination may be modified subject to the limitations of FERPA and other relevant Federal or State privacy laws.

Upon written request, RMCAD shall disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by RMCAD against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

In all cases involving sex-based harassment, the records shall be archived by the Title IX Coordinator for a period of seven (7) years.

l. False Charges

Filing an intentionally false charge with RMCAD of unlawful discrimination, discriminatory harassment, sexual violence, or retaliation is a serious offense. If an investigation reveals that a Complainant knowingly filed false charges, RMCAD may take appropriate actions, which may include termination or expulsion. The imposition of such sanctions does not constitute retaliation. However, a determination after investigation that a charge of harassment or discrimination lacks merit or did not rise to the level of a violation of this Policy does not necessarily mean that the charge was made in bad faith.

m. Outcomes

Upon the conclusion of the Formal Investigation and Grievance Procedure, the panel of decision-makers shall determine the appropriate sanctions and/or remedies and supportive measures for remedying the effects of a violation of this policy.

n. Possible Sanctions

Where there is a finding of responsibility for violation of this policy, and depending on the facts and severity of the violation, RMCAD could impose a variety of sanctions including, but not limited to the following:

- Oral or written warning (Employees and Students)
- Oral or written reprimand (Employees and Students)
- Required attendance at a sexual harassment sensitivity program (Employees and Students)
- Counseling (Employees and Students)
- Probation (Employees and Students)
- Suspension (Employees and Students)
- Expulsion (Students)
- Termination of Employment (Employees)

o. Possible Remedies and Supportive Measures

Upon the receipt of a report of prohibited conduct under this Policy, and/or upon the conclusion of the Formal Investigation and Grievance Procedure, the Title IX Coordinator may implement remedies or actions to end the conduct, remedy its effects, and prevent its recurrence. Appropriate remedies and supportive measures may include, but are not limited to:

- Referral to counseling and health services (Employees and Students)
- Referral to the Employee Assistance Program (Employees)
- Prevention education for the RMCAD community (Employees and Students)
- Providing a Security department escort on campus, when available (Employees and Students)
- Assistance with academics, including schedules and assignments (Students)
- Permanently altering work arrangements for employees (Employees)
- Restriction of campus access for the Respondent, after a safety and risk analysis determines there is an immediate threat (Employees and Students)
- Implementing and/or Continuing No-Contact orders (Employees and Students)
- Campus Climate Surveys (Employees and Students)
- Policy modifications (Employees and Students)

p. Appeal

The Complainant or the Respondent may file a request for an Appeal on the following basis:

- (i) procedural error, irregularity, or other failure to follow the institution's own procedures that affected the outcome of the matter;
- (ii) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
- (iii) The Title IX Coordinator, Investigator(s), or panel of decision-makers had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The appeal must be filed in writing with the Title IX Coordinator within five (5) business days of the receipt of the Outcome Letter and must clearly detail one or more of the above reasons as the basis for the appeal. A delay or incomplete request for an appeal may be grounds for the decision-maker to conclude that the appellant has waived their right to an appeal.

Supportive measures, such as mutual no-contact orders or academic course adjustments for either or both Parties may continue in place throughout an appeal process as determined by RMCAD.

RMCAD's Senior Vice President of Enrollment Management shall act as an impartial appellate officer during an appeal of this policy. The appellate officer shall be free from conflict or bias and

not involved in the underlying grievance decision, to determine first whether a timely and valid request for Appeal has been submitted, and if the Appeal is valid, oversee the Appeal process.

RMCAD shall notify both Parties upon receipt of a timely and complete request for an Appeal and provide both Parties with timeframes for each phase of the Appeal process. Following receipt of a valid appeal, both Parties shall have an opportunity to submit a written statement in support of, or challenging, the panel of decision-makers' determination of responsibility; this is the Statement of Appeal. Both Parties shall have an opportunity to review and respond to the other Party's Statement of Appeal within a reasonable timeframe. All Statements of Appeal, responses, and any supporting evidence shall be reviewed by the appellate officer.

The Senior Vice President of Enrollment Management shall make the final appeal decision and provide both the Complainant and Respondent with a written outcome of the appeal decision. There shall be no further review of the decision.

### 13. ACCOMMODATIONS

RMCAD is committed to fostering mutual respect and full participation for all Parties in the Sex-Based Harassment Policy and Grievance Procedures. Students, faculty, and staff may request reasonable accommodation through either the Student Advising department (for students) or Human Resources department (for faculty and staff). If you have, or think you may have, a disability that may affect your ability to report a complaint or participate in the grievance procedures, please contact the Student Advising department or Human Resources to initiate a conversation about reasonable accommodations.

Requests for accommodations may be made to:  
Student Accessibility Services Coordinator  
1600 Pierce Street  
Lakewood, CO 80214  
720-603-3023; abacke@rmcad.edu

Director, Human Resources  
1600 Pierce Street  
Lakewood, CO 80214  
303.225.8552; humanresources@rmcad.edu

### 14. RESOURCES

National Sexual Assault Hotline (RAINN)  
Phone: 800.656.HOPE  
[www.rainn.org](http://www.rainn.org)

Campus Save Campus SAVE Act  
<http://campussaveact.org/>

National Domestic Violence Hotline  
Phone: 800.799.7233  
[www.thehotline.org](http://www.thehotline.org)

Employee Assistance Program (for employees of Rocky Mountain College of Art + Design)  
ComPsych  
Call: 888.628.4824 or visit [www.GuidanceResources.com](http://www.GuidanceResources.com)  
(username: LFGsupport password: LFGsupport1)

Centric Behavioral Health  
Phone: 844.233.8205  
centricbh.com

The Blue Bench (Formerly RAAP)

Hotline: 303.322.7273

Spanish: 303.329.0031

TTY: 303.329.0023

[www.thebluebench.org](https://thebluebench.org/) (<https://thebluebench.org/>)

Located in Denver. Counties served include: Denver, Jefferson, Douglas, Adams, Arapahoe, Elbert, Broomfield, Gilpin, and Lincoln.

Colorado Coalition Against Sexual Assault (CCASA)

1330 Fox Street, Suite 2

Denver, CO 80204

Phone: 303.839.9999

## 15. RIGHTS OF THE PARTIES

Upon the receipt of a sex-based harassment complaint, RMCAD shall provide the Complainant and Respondent with a written explanation of their rights and options as described below:

- a. The right to have all accusations of sex-based harassment treated with seriousness and dignity;
- b. The right to have any claims, which fall within the scope of this policy, investigated and adjudicated through RMCAD's Sex-Based Harassment Policy and Grievance Procedure and, where appropriate, duly constituted criminal and civil authorities of the governmental entity in which the crimes occurred, and the right to the full and prompt cooperation and assistance of campus personnel in notifying the proper authorities;
- c. The right to be free from pressure that would suggest that individuals (1) not report crimes committed against them to civil and criminal authorities or to the campus Security and disciplinary officials; (2) report crimes as lesser offenses than the individual perceives them to be; (3) are obligated to notify law enforcement authorities;
- d. The right to the full and prompt, reasonable cooperation from campus personnel in responding to the incident;
- e. The right to have access to counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services established by RMCAD or other entities;
- f. The right to require that campus personnel take the necessary steps or actions reasonably feasible to prevent unwanted contact with, or proximity to, alleged assailants after a complaint is reported;
- g. The right to available options that may be provided by RMCAD for changes to transportation, working, academic and/or living situations, if requested, while an informal resolution or formal investigation is ending, including the option to issue a no-contact order. These steps shall be taken regardless of whether the Complainant chooses to file a formal complaint;
- h. The right to be informed of disciplinary proceedings, be present at and participate in those proceedings, and be informed of the outcome of such proceedings;
- i. The same right to assistance, or ability to have others present, that is afforded to the other Party.