

Title IX Implementation Task Force Summary of Revisions to Code of Student Conduct

This document provides a summary of the revisions to be made to the Code of Student Conduct (“Code”) related to the Task Force’s concurrent drafting of the Sexual Misconduct Policy for Faculty, Staff and Students. The effect of the final Title IX regulations (released by the Department of Education in May) is that certain types of misconduct related to sexual assault and harassment will be handled in a grievance process requires adjudication through a live hearing with cross examination of parties and witnesses. The Code does not prescribe such a process for adjudication; the investigation and adjudication of Code violations are handled by the trained staff members in Student Judicial Programs.

The conduct that Title IX defines as “sexual harassment” will be investigated and adjudicated as “Sexual Misconduct (Title IX)” under the new Sexual Misconduct Policy for Faculty, Staff and Students. Generally, conduct that does not fall under the definition of “Sexual Misconduct (Title IX)” will be investigated and adjudicated under the Code of Student Conduct. If there are other alleged violations that, if proven, would fall under the Code of Student that arise out of the same facts or circumstances as an alleged incident of Sexual Misconduct (Title IX), then all alleged violations will be investigated and adjudicated through the Title IX formal grievance process.

Nothing about the way Student Judicial Programs investigates and adjudicates non-Title IX misconduct will change.

1. **Immediate and interim actions; emergency removals.** The final Title IX regulations require that emergency removals occur only under specific circumstances, and that the decision to remove a student from Rice on an emergency basis can be challenged by the student that is removed. A removal for this purpose could be, for example, a “rustication” in which the student is removed from the residential colleges, or an interim suspension while an allegation of Sexual Misconduct (Title IX) is pending. The Code will be revised to state that emergency removal of students related to Sexual Misconduct (Title IX) must follow the procedures in section IIIId. of the Sexual Misconduct Policy for Faculty, Staff and Students.
2. **Sexual Misconduct (non-Title IX).** The Sexual Misconduct Policy for Faculty, Staff, and Students will apply to misconduct that falls within the definition of “sexual harassment” as defined by the final Title IX Regulations. All misconduct that is sexual nature and that does not fit within that definition will be investigated and adjudicated under the Code, unless that misconduct arises out of the same facts or circumstances as an allegation of Sexual Misconduct (Title IX); in that case, all allegations would be investigated and adjudicated Title IX grievance process. In order to clarify this

distinction, the language contained in section II.B.1.a.ii. of the Code related to prohibited conduct will be revised to state:

ii. Sexual misconduct (non-Title IX): Unwelcome conduct that is based on sex, gender, gender identity, or sexual orientation, but that is not explicitly prohibited under Title IX, as defined in the Sexual Misconduct Policy for Faculty, Staff and Students (Policy 828). This includes any conduct that is reasonably regarded as offensive and has the purpose or effect of substantially interfering with the educational opportunities of students, or creating an intimidating or hostile educational environment. Specifically, Sexual Misconduct (non-Title IX) includes:

- Continued unwelcome contact, advances, or requests that are sexual in nature,
- Unwelcome verbal or physical behavior that is sexual in nature,
- Non-consensual touching or kissing,
- Sexual exploitation,
- Lewd or inappropriate sexual verbal comments, or online postings,
- Sexual harassment that does not meet the definition under Title IX in the Sexual Misconduct Policy because it occurred outside the United States, off campus, or did not arise from an educational program or activity of Rice University.

3. **Appeals.** The final regulations of Title IX have specific requirements for any appeal of a decision made as a result of the Title IX formal grievance procedures. Specifically, the final regulations prescribe the bases for appeal that must be available in those cases. The bases for appeal contained in the Code are slightly different than the wording used by the Department of Education, therefore there will be a provision added to the Code that states appeals of Sexual Misconduct (Title IX) will follow the appeal procedures detailed in the Sexual Misconduct Policy for Faculty, Staff and Students. Depending on the status of the respondent, the Dean of Undergraduates or the Dean of Graduate and Postdoctoral Studies will remain the appeal decision maker in both Title IX and non-Title IX sexual misconduct.
4. **Other references.** The Code will also be updated to include various references back to the procedures and requirements detailed in the Sexual Misconduct Policy for Faculty, Staff and Students when it is necessary to distinguish between the types of investigation/adjudication procedures that will be utilized depending on the alleged behavior.