

RICHARD GILDER GRADUATE SCHOOL

Gender-Based Misconduct Policy Involving Students (Policy)

-and-

Procedures for Responding to Complaints of Gender-  
Based Misconduct By and Against Students (Procedures)

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## INTRODUCTION

The Richard Gilder Graduate School (“RGGGS”) at the American Museum of Natural History (the “Museum”)<sup>1</sup> is committed to fostering an environment that is free from gender-based discrimination and harassment, including sexual assault and all other forms of gender-based misconduct. RGGGS recognizes its responsibility to increase awareness of such misconduct, prevent its occurrence, diligently investigate reports of misconduct, support victims, and deal fairly and firmly with those who violate this Policy.

Through this Gender-Based Misconduct Policy and accompanying Procedures, RGGGS defines gender-based misconduct and sets forth its procedures for addressing gender-based misconduct involving RGGGS students (“students”). The Policy and Procedures are designed to reflect a commitment to a safe and non-discriminatory educational environment.. Importantly, the Museum has a separate policy for allegations of sexual harassment that implicate Title IX of the Education Amendments of 1972 and the New York State Education Law Article 129-A and -B, available on the Museum Intranet. Under regulations issued in May 2020, the Museum must now narrow both the geographic scope of its authority under Title IX and the types of “sexual harassment” that it must subject to its Title IX investigation and adjudication process. However, the Museum remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule. Therefore, the Museum will use this and other Museum policies for allegations of sexual and other misconduct that do not implicate Title IX of the Education Amendments of 1972.

Here are several important points about gender-based misconduct that this Policy addresses:

- Gender-based misconduct comprises a broad range of behaviors focused on sex and/or gender that may or may not be sexual in nature.
- Sexual harassment that does not meet the definition of Title IX sexual harassment, including sexual assault, sexual exploitation, gender-based harassment, stalking, domestic violence, and dating violence are all forms of gender-based misconduct, among others.
- Gender-based misconduct can occur between strangers, acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship.
- Gender-based misconduct can be committed by anyone regardless of gender identity, and it can occur between people of the same or different sex or gender.

RGGGS does not tolerate any form of gender-based misconduct. Students who experience gender-based misconduct, or other individuals subjected to gender-based misconduct by students, can bring complaints through the process set out below.<sup>2</sup> Those found responsible will be sanctioned in accordance with this Policy. Individuals who experience gender-based misconduct may also be able to pursue criminal and civil processes,

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<sup>1</sup> RGGGS is an academic unit of the American Museum of Natural History, and references herein to RGGGS include the supporting departments and divisions of the Museum and the premises of the Museum.

<sup>2</sup> The Museum has a separate policy for allegations of gender-based misconduct which do not involve students, which is available on the Museum Intranet. Additionally and as noted above, the Museum has a separate policy for allegations of sexual harassment that implicate Title IX of the Education Amendments of 1972, which is available on the Museum Intranet.

in addition to or instead of the process under this Policy.

This Policy and accompanying Procedures are part of a multifaceted approach toward eliminating gender-based misconduct in our community. This approach includes: (1) training programs; (2) services and resources for those affected by gender-based misconduct; (3) accessible, prompt, and fair methods of investigation and resolution of reports of misconduct; and (4) protections designed to prevent against recurrence.

The Policy first specifies prohibited conduct. It then describes available resources and reporting options, and explains whether and to what extent reports are confidential. Finally, the Policy discusses measures and accommodations that may be available in particular cases to support and assist students. The Procedures spell out the investigation and sanctioning process for matters in which students are involved as Complainants (persons who make an allegation(s) of gender-based misconduct) or Respondents (persons alleged to have committed gender-based misconduct), as well as the rights of students in connection with the process. The very last section includes the New York State Student's Bill of Rights and a comprehensive listing of resources available to individuals affected by gender-based misconduct, including phone numbers, locations and websites.

Nothing in the Policy or the Procedures shall be construed to abridge academic freedom and inquiry, principles of free speech, or RGGGS's educational mission.

**Note:** While this Policy and the Procedures identify the Museum office or employee who will typically perform certain roles or duties, the Museum may designate other individuals to perform any roles or duties described in the Policy or Procedures. Additionally, any reference to "days" in this Policy and these Procedures, unless otherwise specified, refers to business days.

## SCOPE OF THE POLICY AND PROCEDURES

This Policy governs non-Title IX gender-based misconduct allegations by or against graduate students enrolled in RGGGS or studying at RGGGS through its university partnership programs, visiting students and researchers, and undergraduates enrolled in the RGGGS' academic and research programs. It applies to incidents that: (1) occur on the RGGGS/Museum premises or in connection with any RGGGS or Museum sponsored programs or activities; or (2) create a hostile environment for students at RGGGS or in RGGGS/Museum sponsored programs or activities, even if the incident giving rise to such a hostile environment occurred off-campus and/or at a non-Museum or non-Museum sponsored event. An activity "sponsored" by the Museum is any activity with which the Museum is associated by name, staff or funding, in which a member of the Museum community is acting in his/her capacity as a Museum participant or representative. This includes, but is not limited to, participation in field work, conferences, events and meetings related to work at the Museum or off-site, and to activities before, during and after such participation.

This Policy and the Procedures govern incidents where either or both of the Complainant and the Respondent are RGGGS students. It also applies to RGGGS student complaints against staff of the Museum, including individuals holding curatorial and faculty appointments, whether tenured or non-tenured; union and non-

union employees; full-time, part-time, and term employees including postdoctoral trainees (“Museum Staff”); as well as volunteers, visiting scholars, and research associates while they are working at the Museum, regardless of their length of stay (all of whom, with the Museum Staff, constitute the “Museum community”). The Museum has separate policies and procedures that apply to Title IX sexual harassment allegations, pre-K-12 students in Museum education programs, as well as to reports of sexual and other misconduct that do not involve students as Complainants or Respondents.

The Museum policy that applies to a particular allegation may depend upon the identity of the Respondent and their affiliation with the Museum. A situation may arise that triggers the procedures under both this Policy and another Museum policy or set of policies (for example, the Staff Anti-Harassment Policy and Procedures or the Title IX Sexual Harassment Policy). In such a situation, Human Resources will ensure (and, if necessary, work together with other applicable Museum officials to ensure) that the Museum uses appropriate procedures under the circumstances to investigate alleged discrimination and harassment and to promote a Museum community free of discrimination and harassment. Human Resources or an outside investigator will investigate all complaints, regardless of the particular policy the parties think is applicable. Similarly, a Complainant cannot file additional complaints about an incident once a final disposition is reached, regardless of the policy used to review the matter. The Museum reserves the right to deviate from the procedures set forth in this Policy as appropriate; provided, however, that nothing herein eliminates or modifies certain individuals’ duties to refrain from and report discrimination and harassment and to cooperate with any investigation.

This Policy pertains to any reports made or pending after adoption of this Policy, regardless of when the incident occurred. The Policy applies regardless of a person’s gender, gender identity, gender expression, sexual orientation, age, race, nationality, class status, religion, pregnancy, predisposing genetic characteristics, military status, criminal convictions, domestic violence status, familial status, or other protected status.

Vendors, contractors, consultants, and other outside individuals are governed in their interactions with members of the Museum community and students by contracts, and are required to comply with the Museum’s Anti-Harassment Policy and Procedures.

The Museum’s Department of Human Resources has overall responsibility for the Policy and Procedures and has been designated as the institutional Compliance Office for Title IX, Section 504 of the Rehabilitation Act, and other equal opportunity, nondiscrimination and affirmative action laws. Benjamin Marzolf has been designated as the institution’s Title IX Coordinator and Equal Opportunity Specialist. The Department of Human Resources may designate other offices or employees to perform any roles or duties described in the Policy or Procedures.

The Museum also has other policies on harassment, violence and gender-based misconduct for faculty, staff and other individuals working at or with the Museum and which do not involve a student as either the Complainant or Respondent, [which are available on the Museum’s Intranet](#), including but not limited to a separate policy for allegations of sexual harassment that implicate Title IX of the Education Amendments of 1972. Procedures for addressing complaints of bullying or harassment (other than sexual misconduct) by or

against students are addressed in the RGGGS and MAT Student Handbooks and the Museum's staff Anti-Harassment Policy and Procedures, and should be brought to attention of the Department of Human Resources, the Dean of RGGGS and/or the Senior Vice President overseeing the MAT Program. Additionally, the Museum has separate policies of standards of conduct and safety that apply to Museum staff and any other mentors with regard to pre-K-12 and undergraduate participants in education programs, and for ad hoc interns and those in regular internship programs, [available here](#).

Employees, students, and third parties may contact Human Resources to inquire about their rights under RGGGS and Museum policies, request assistance, seek information about filing a complaint, or report conduct or behavior that may violate these policies. The contact information for Human Resources can be found after the Procedures at the end of this document.

## GENDER-BASED MISCONDUCT POLICY (“POLICY”)

### PROHIBITED CONDUCT

Gender-based misconduct includes a broad range of behaviors focused on sex and/or gender that may or may not be sexual in nature. This misconduct can occur between strangers or acquaintances, or people who know each other well (including between people involved in an intimate or sexual relationship), can be committed by anyone regardless of gender identity, and can occur between people of the same or different sex or gender. One form of prohibited conduct can occur separately from or simultaneously with another form of prohibited conduct. To determine whether alleged conduct falls within a definition of prohibited conduct below, the standard applied is whether a reasonable person would consider the alleged conduct to fall within that definition.

#### Definitions of Gender-Based Misconduct

- **Sexual Assault.**<sup>3</sup> Sexual assault is sexual contact with another person without that person’s consent. Sexual assault includes, but is not limited to: (i) intentional touching of another person’s intimate parts without that person’s consent; or (ii) other intentional sexual contact with another person without that person’s consent; or (iii) coercing, forcing, or attempting to coerce or force a person to touch another person’s intimate parts without that person’s consent; or (iv) rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s consent.
- **Affirmative Consent.** 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 express willingness to engage in the sexual contact or activity. It is important not to make assumptions. If there is confusion or ambiguity, participants in sexual activity need to stop and verbally clarify each person’s willingness to continue.
  - Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, coercion, or from a person who is incapacitated (as defined below).
  - Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

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<sup>3</sup> If an allegation of sexual assault would otherwise be covered by the policy required under Title IX of the Education Amendments of 1972 and its regulations, it will be addressed under the Museum’s Title IX Policy, available on the Museum’s Intranet.

- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person.
  - Silence or the lack of resistance, in and of itself, does not demonstrate consent. Again, it is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and verbally clarifies the other's willingness to continue engaging in the sexual contact or activity.
  - Consent may be initially given, but can be withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must stop.
  - Previous relationships or previous consent for sexual activity is not consent to sexual activity on a different occasion.
  - The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, gender expression or relationship status.
- **Force.** Force refers to the use of physical violence and/or imposing on someone physically to gain sexual access. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.
    - **Intimidation.** Any threat of violence or other threatening behavior directed toward another person or group that reasonably leads the target(s) to fear for their physical, academic or professional well-being or to engage in sexual conduct for self-protection.
    - **Coercion.** Coercion is verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is used to compel someone to engage in sexual contact.
- **Incapacitation.** Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. A person who is incapacitated cannot make a rational, reasonable decision because the person lacks the ability to understand his or her decision.
    - Incapacitation may be associated with a person's lacking consciousness; being asleep; being involuntarily restrained; having a disability that impedes consent; or if an individual otherwise cannot consent due to other forms of helplessness.
      - Under New York State law, a person under the age of 17 lacks the capacity to give consent to sexual activity.
    - Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.



**How drugs and alcohol affect consent:**

- The impact of alcohol and other drugs varies from person to person. Warning signs that a person may be incapacitated or approaching incapacitation as a result of alcohol or drug use may include, but are not limited to, slurred or incomprehensible speech, vomiting, unsteady gait, combativeness, or emotional volatility.
- Individuals should be aware of, and carefully consider, the potential consequences of the use of alcohol or drugs. Alcohol and drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given.
  - Whether sexual activity with an incapacitated person constitutes gender-based misconduct depends on whether the Respondent knew or should have known of the Complainant's incapacitation, based on objective and reasonably apparent indications when viewed from the perspective of a sober, reasonable person in the Respondent's position.
  - Being intoxicated, impaired, or incapacitated by alcohol or other drugs is never an excuse for committing a Policy violation and does not diminish anyone's responsibility to obtain informed and freely given consent.
  - The use of alcohol or other drugs does not make someone at fault for experiencing gender-based misconduct.
- **Domestic Violence.**<sup>4</sup> The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, psychological, sexual, technological, or economic abuse directed toward (1) a current or former spouse or intimate partner; (2) a person with whom one shares a child; or (3) anyone who is protected from the Respondent's acts under the domestic or family violence laws of New York. This includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, or physically injure someone. Domestic violence can be a single act or a pattern of behavior in relationships.
- **Dating Violence.**<sup>5</sup> The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, psychological, sexual, technological, or economic abuse directed toward a person who is or has been in a social relationship of a romantic or sexually intimate nature with the victim. This includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten,

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<sup>4</sup> If an allegation of domestic violence would otherwise be covered by the policy required under Title IX of the Education Amendments of 1972 and its regulations, it will be addressed under the Museum's Title IX Policy, available on the Museum's Intranet.

<sup>5</sup> If an allegation of dating violence would otherwise be covered by the policy required under Title IX of the Education Amendments of 1972 and its regulations, it will be addressed under the Museum's Title IX Policy, available on the Museum's Intranet.

or physically injure someone. Dating violence can be a single act or a pattern of behavior in relationships.

- **Sexual Exploitation.** Non-consensual abuse or exploitation of another person’s sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other illicit purpose. Examples of sexual exploitation may include, but are not limited to: sexual activity or allowing another to observe nudity or sexual activity without the knowledge and affirmative consent of all participants; streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and affirmative consent of all participants; exposing one’s genitals in non-consensual circumstances; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.
- **Stalking.**<sup>6</sup> A course of unwanted attention that is repeated or obsessive, directed toward an individual or a group and that is reasonably likely to cause alarm, fear or substantial emotional distress. Stalking may take many forms, including lying in wait for, monitoring, and/or pursuing contact. Stalking may occur in person or through communications such as telephone calls, text messages, unwanted gifts, letters, e-mails, surveillance, or other types of observation.
- **Sexual Harassment.**<sup>7</sup> Unwelcome sexual advances, requests for sexual contact, and other verbal, physical, or visual conduct of a sexual nature constitutes sexual harassment when:
  - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s academic, co-curricular, or campus life activities;
  - Submission to or rejection of such conduct by an individual is used as the basis for academic or student life decisions affecting that individual; or
  - Such conduct has the effect of unreasonably interfering with another person’s academic performance or creating an intimidating, hostile, demeaning, or offensive campus environment.
- **Gender-based Harassment.** Acts of aggression, intimidation, stalking, or hostility based on gender or gender stereotyping constitute gender-based harassment. Gender-based harassment can occur if students are harassed, or harass others, either for exhibiting what is perceived as a stereotypical characteristic of their sex or for failing to conform to stereotypical notions of masculinity or femininity. Gender-based harassment also includes harassment based on an individual’s gender identity or sexual preference.

To constitute harassment, the conduct must unreasonably interfere with another person’s education or

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<sup>6</sup>If an allegation of stalking would otherwise be covered by the policy required under Title IX of the Education Amendments of 1972 and its regulations, it will be addressed under the Museum’s Title IX Policy, available on the Museum’s Intranet.

<sup>7</sup> If an allegation of sexual harassment would otherwise be covered by the policy required under Title IX of the Education Amendments of 1972 and its regulations, it will be addressed under the Museum’s Title IX Policy, available on the Museum’s Intranet.

participation in educational programs or activities or create an intimidating, hostile, demeaning, or offensive academic or work environment.

Here are some examples of conduct that could constitute gender-based misconduct under the definitions above:

- Coercion for a date or a romantic or intimate relationship
  - Unwelcome kissing, hugging, or other forms of physical contact, such as touching or massaging
  - Use of unwanted force in connection with sexual activity or attempted sexual activity
  - Sexual contact with a person who has not consented
  - Unwelcome remarks about a person's genitals, including breasts
  - Belittling remarks about a person's gender or sexual orientation based on gender stereotypes
  - Video recording or photographing of a person or activity of a sexual or private nature without the consent of the person(s) being video recorded or photographed
  - Dissemination of information regarding the sexual activity of another person verbally (orally or in writing), digitally or by graffiti
  - Use of e-mail, the Internet, or other forms of digital media to facilitate any of the conduct listed above
- **Hostile Environment.** A hostile environment may arise when unwelcome conduct of a sexual or gender-based nature affects an individual's ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening, or abusive educational or work environment. A single, isolated incident of sexual or gender-based harassment under this policy may, based on the facts and circumstances, create a hostile environment.

In evaluating a hostile environment, RGGGS will consider the totality of the known circumstances, including but not limited to:

- The frequency, nature and severity of the conduct
  - Whether the conduct was physically threatening
  - The effect of the conduct on the Complainant's mental or emotional state
  - Whether the conduct was directed at more than one person
  - Whether the conduct arose in the context of other discriminatory conduct
  - Whether the conduct interfered with the Complainant's educational or work performance in RGGGS or Museum programs or activities
- **Retaliation.** Any adverse action or threatened action, taken or made, personally or through a third party, against a Complainant or a Respondent or any other individual because they (a) filed a

complaint or made management or HR aware of a potential violation; or (b) participated in any manner in an investigation or proceeding under this policy, including individuals who file a third-person report and those who are interviewed or otherwise provide evidence in the investigation (witnesses).

- All individuals and groups of individuals, not just a Respondent or Complainant, are prohibited from engaging in retaliation. Retaliation can refer to actions or threatened actions by any individual, including others who are not employees of the Museum or otherwise engaged in the disciplinary process.
- Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from seeking services; receiving protective measures and accommodations; reporting misconduct; or participating in the disciplinary process as a Complainant, Respondent, Witness, or Third-Party Reporter.
- Retaliation includes maliciously and purposefully interfering with, threatening, or damaging the academic or professional reputation of another individual, before, during or after the resolution of a report of misconduct under this policy.
- The protections against retaliation apply to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate. Retaliation may be found even when the underlying charge does not constitute a violation of Museum or RGGGS policies.

#### **POLICY ON CONSENSUAL RELATIONSHIPS**

RGGGS does not have a blanket prohibition against consensual romantic relationships in the workplace or among students, and recognizes that many people meet their partners through a shared interest in their professional and academic pursuits. RGGGS expects individuals to act professionally, and to consider the appropriate time and place for romantic activities. Sexual activity is prohibited on Museum premises.

However, certain consensual sexual relationships can compromise the work and educational environment. Specifically, relationships between those in positions of authority over students or staff, even if consented to, are potentially exploitative because of the imbalance of power inherent in the relationships. They raise concerns such as conflict of interest and fairness of treatment to the student involved and/or other students, and they present potential legal liability for the Museum as an institution and potential personal liability for the individual in the position of authority.

Therefore, no member of the Museum community shall request or accept sexual favors from, engage in a romantic or sexual relationship with, or have any sexual contact with any student, intern or mentee at the undergraduate level or below in any general education or internship program at the Museum, whether or not such favors, relationship or contact are consensual. Further, no member of the Museum community shall request or accept sexual favors from, engage in a romantic or sexual relationship with, or have any sexual contact with any graduate student, intern or mentee who is enrolled in a course taught by that member of the Museum community or who is otherwise subject to that individual's academic supervision. Academic supervision includes but is not limited to teaching, academic advising, committee membership for a thesis, dissertation or any other RGGGS committee, supervising research or educational activities, grading and

mentoring.

Individuals with concerns about compliance by others with this Policy, including perceived instances of favoritism on the basis of consensual intimate relationships, may report their concerns to the Dean of RGGGS, RGGGS Director of Administration, or the Senior Vice President overseeing the MAT Program. Staff with concerns about compliance by others may report to Human Resources.

## RESOURCES

RGGGS encourages all individuals affected by gender-based misconduct to seek immediate assistance. Seeking assistance promptly may be important to ensure a Complainant's physical safety or to obtain medical care, emotional support, or other support; it may also be necessary to preserve evidence, which can assist RGGGS and/or law enforcement in responding effectively. Assistance is available twenty-four hours a day, seven days a week. The Resources listed at the end of this document provide contact information for RGGGS and community resources available to help.

## REPORTING GENDER-BASED MISCONDUCT AND CONFIDENTIALITY

RGGGS encourages individuals to report gender-based misconduct to the Title IX Coordinator / Equal Opportunity Specialist (as identified below) so that the Museum can investigate and respond effectively. Individuals may meet with the Title IX Coordinator to learn more about the process before making a report. RGGGS respects the privacy of those reporting sexual misconduct and participating in the process. Individuals should be able to seek the assistance they need without fear that the information they provide will be shared more broadly. Federal and state laws, however, impose reporting obligations on certain employees, including certain RGGGS faculty and Museum staff that, in some circumstances, can require those personnel to share information from a report of gender-based misconduct with law enforcement, the Title IX Coordinator, the Department of Security and Safety, or others.

### Notification of Rights at the Time of First Disclosure; Explanation of Privacy & Confidentiality

At the first instance of disclosure by a reporting individual to a "non-confidential" institution representative, the following information shall be presented to the reporting individual:

"You have the right to make a report to the Department of Public Safety, local law enforcement, or State Police or choose not to report; to report the incident to the Museum; to be protected by the Museum from retaliation for reporting an incident; and to receive assistance and resources from the Museum."

### Title IX Coordinator / Equal Opportunity Specialist

The Museum's Title IX Coordinator (or any Deputy or Assistant Title IX Coordinator assigned to a case) is responsible for overseeing RGGGS's response to reports and complaints of gender-based misconduct, and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. The Title IX Coordinator oversees the administration of this Policy and the Procedures in a neutral and equitable manner. Contact information for the Title IX Coordinator is in the Resource listing following the Procedures.

The Title IX Coordinator supports and provides assistance to individuals affected by gender-based misconduct. The Title IX Coordinator does not act as an advocate, but is a neutral resource available to everyone studying or working at the Museum. The Title IX Coordinator is responsible for referring individuals to available resources, offering appropriate protections, and coordinating the process set out in this Policy and Procedures. The Title IX Coordinator can provide support and assistance immediately following an incident involving students and may assist individuals seeking accommodations or interim measures, including cases where a Complainant chooses not to engage in the process or when the Respondent is not affiliated with RGGGS or the Museum.

#### Reporting Gender-Based Misconduct to Law Enforcement

As noted above, individuals may, in their discretion, choose to report gender-based misconduct to the New York City Police Department, the Manhattan District Attorney's Office, or to the local law enforcement agency where the misconduct occurred if the misconduct occurred outside of New York City. The Museum may be required to report instances of violent felony offenses occurring on Museum premises to the New York City Police Department, though this can be done on a no-names basis.

The RGGGS process and criminal justice system work independently from one another. Law enforcement authorities do not determine whether a violation of this Policy has occurred, and the criminal justice system uses different standards related to proof and evidence. Any questions about whether a specific incident violated the penal law should be addressed to law enforcement. Individuals may consult the chart at the end of this Policy for further information about the differences between the RGGGS and criminal processes.

The Office of General Counsel and Human Resources, in consultation with the Director and Deputy Directors of the Department of Security and Safety, and the other resources in the Resources listing, are familiar with New York City and New York State law enforcement processes and can explain what happens when gender-based or sexual misconduct is reported to law enforcement.

The Title IX Coordinator can explain how to report gender-based misconduct to law enforcement, and a manager from the Department of Security and Safety or the Title IX Coordinator can accompany any individual requesting support to the Police Department or District Attorney's Office. However, they cannot serve as a substitute for legal advice on these matters.

#### Confidentiality, Confidential & Non-Confidential Counseling Resources

Individuals who are confidential resources will not report crimes to law enforcement or Museum officials without permission, except for extreme circumstances, such as a health and/or safety emergency. Even when the recipient of a report of gender-based misconduct has an obligation to report to others (and are "non-confidential" under this Policy), such individuals will endeavor to protect and respect the reporting individuals' privacy to the greatest extent possible and share information only on a need-to-know basis. The information provided to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution. For more information on confidentiality, see the section below.

RGGS has designated Student Affairs Facilitator(s) of the Ph.D. in Comparative Biology and MAT programs as advising resources for students. The Student Affairs Facilitator(s) are not, however, licensed counselors or confidential resources for gender-based misconduct incidents. Students in need of confidential counseling services may use the following resources:

- Rebecca Wemyss Carman, LCSW, is a licensed social worker with experience counseling victims of sexual assault. She can be reached at 917-751-8803, and at [Rebecca@RebeccaWCarman.com](mailto:Rebecca@RebeccaWCarman.com) to schedule an appointment.
- The Crime Victims Treatment Center (the “CVTC”) at Mt. Sinai St. Luke’s Hospital, located at 126 W 60th St, New York, NY 10023, provides free and confidential counseling services and resources. Call 212-523-4728 or visit [www.cvtcnyc.org](http://www.cvtcnyc.org). The CVTC can help victims of Sexual Assault, Dating Violence, Domestic Violence, and other crimes get treatment or therapy, report a crime, or seek an order of protection, or access other resources. Additional off-campus advocacy, counseling and health service resources are appended to this Policy.

#### [Requesting Confidentiality in Connection With a Report to the Title IX Coordinator / Equal Opportunity Specialist](#)

An individual who reports gender-based misconduct to the Title IX Coordinator may request that the Title IX Coordinator not disclose his or her identity to anyone else, including the person who allegedly committed the misconduct. While such a request may limit the ability to investigate and respond to the reported misconduct, the Title IX Coordinator, in consultation with the Museum’s Office of General Counsel, will consider the request in light of the commitment of RGGS to provide a safe and non-discriminatory environment for all students and will honor the request whenever possible. The Title IX Coordinator will promptly notify the individual making the request whether RGGS will be able to honor it.

Whether or not the Title IX Coordinator is able to grant a request to keep the reporting individual’s identity confidential, the Title IX Coordinator will reveal information about investigations and disciplinary proceedings related to gender-based misconduct only to those who need to know in order to carry out their duties and responsibilities. In all cases, the Title IX Coordinator will take appropriate steps designed to counteract the effects of the alleged gender-based misconduct, prevent its recurrence, and make accommodations for the parties involved. This may include academic and work accommodations, increased monitoring, supervision, or security at locations or in connection with activities where the alleged misconduct occurred, and training and educational materials for the campus community. If there is reason for concern about possible retaliation or harm, the Title IX Coordinator will take protective measures in consultation with the affected parties.

#### [Accommodations and Interim Measures](#)

RGGS or the Museum can provide accommodations and impose interim measures after a report has been

filed.

The Title IX Coordinator will work with all individuals affected by gender-based misconduct to ensure their safety and promote their well-being. Sometimes this assistance will take the form of appropriate accommodations intended to provide support and relief.

### Accommodations

A Complainant may request accommodations even in cases where an investigation is not undertaken or either party has declined to participate in the RGGGS disciplinary proceeding or the criminal process.

Complainants may also request a prompt and reasonable review of the need for and terms of any accommodation that directly affects them and may submit evidence in support of their request. Requests for review of the accommodations shall be submitted in writing to the Title IX Coordinator.

The Title IX Coordinator will evaluate any request for accommodations (including a Complainant's request for review of the terms of any accommodation directly affecting them) in light of the circumstances and information available at the time of the request. If requested accommodations cannot be granted, the Title IX Coordinator (following review by the Office of General Counsel) will provide an explanation, in writing, to the Complainant.

Accommodations may include, but are not limited to:

- Adjusting an individual's work schedule, location or reporting relationship for employment
- Changing a student's academic schedule
- Allowing a student to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support

### Interim Measures

An individual who has experienced gender-based misconduct may also be entitled to obtain remedies under applicable law, such as an order of protection. The Title IX Coordinator and the Museum's Department of Security and Safety can assist an individual in contacting law enforcement or legal service organizations to learn about these remedies.

RGGGS may also take action through directives (known as "interim measures") to ensure the safety of all parties involved and to protect the integrity of a pending investigation or disciplinary process.

Interim measures include, but are not limited to:

- "No contact" directives
- Restricting a Respondent's access to Museum buildings/RGGGS spaces and/or Museum/RGGGS activities
- Temporarily suspending a Respondent from the Museum or RGGGS



- Temporarily suspending a Respondent from specified Museum/RGGS activities

Failure to comply with interim measures or other directives is a violation of this Policy and may lead to disciplinary action as described in this Policy.

Following the report of an incident, the Title IX Coordinator will provide written notice to the individuals involved in the incident, describing any necessary interim measures and the accommodations and resources available to them. The Title IX Coordinator and RGGS will provide notice about these measures and accommodations only to those who need to know in order to make them effective.

Complainants or Respondents may request a prompt and reasonable review of the need for and terms of any interim measure that directly affects them and may submit evidence in support of their request. Requests for review of the interim measure should be submitted in writing to the Title IX Coordinator within 15 days of their implementation.

#### Other Information About Reporting

RGGS does not limit the time for submitting a report of gender-based misconduct, but a report or complaint should be made as promptly as possible following the alleged misconduct to ensure the Museum can investigate appropriately. The Museum's ability to investigate and respond effectively may be reduced with the passage of time and the loss of reliable evidence. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of misconduct. The Museum may decline to investigate when the Respondent is no longer part of the Museum community, though the Museum will still work to offer support and accommodations requested by the Complainant.

In cases where gender-based misconduct is reported to the Title IX Coordinator by someone other than the individual who was subjected to the alleged misconduct (for example, a faculty member, colleague, or friend), the Title IX Coordinator will promptly notify the affected individual that a report has been received. This Policy and the Procedures will apply in the same manner as if the affected individual had made the initial report. The Title IX Coordinator will make every effort to meet with the affected individual to discuss available options and on-campus and off-campus resources. Reports from anonymous sources will be treated in a similar fashion.

#### Student Amnesty for Alcohol and/or Drug Use; Non-RGGS/Non-Museum Respondents; Public Awareness Events & Forums

The health and safety of every individual at the Museum is of utmost importance. Individuals who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, occurs, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. RGGS strongly encourages individuals to report domestic violence, dating violence, stalking, sexual assault or other gender-based misconduct involving members of the RGGS and/or Museum community to RGGS officials. Accordingly,

RGGS has adopted the following policy:

A student or member of the Museum community (including a bystander), acting in good faith, who discloses any incident of gender-based misconduct to an RGGS or Museum Staff member or law enforcement will not be subject to disciplinary action for their own violations of alcohol and/or drug policies occurring at or near the time of the gender-based misconduct.

The Title IX Coordinator will, if possible, investigate reports of incidents involving students that also involve persons who are not members of the RGGS/Museum community or whose identity is not known, and will assist the affected students in identifying appropriate resources.

The Museum supports public awareness events and other forums. These activities help inform the need for community-wide education and prevention efforts. The disclosure of incidents of gender-based misconduct at such events or forums is not considered a report to the Museum for purposes of triggering an investigation of a particular incident.

## **PROCEDURES FOR RESPONDING TO COMPLAINTS of GENDER-BASED MISCONDUCT BY AND AGAINST STUDENTS (PROCEDURES)<sup>8</sup>**

This section first describes individuals' rights in the investigation and disciplinary process and other important background information, including about privacy, support persons, and time frames. It then describes the disciplinary process in detail.

### **RIGHTS OF THE COMPLAINANT AND RESPONDENT**

In order to provide accessible, prompt, and fair methods of investigation and resolution of incidents of gender-based misconduct involving students, RGGS has developed a process for investigation and adjudication of misconduct reports. Throughout this process, both the Complainant and the Respondent have the right to:

- Respect, dignity, and sensitivity
- Appropriate support from RGGS and the Museum
- Privacy to the extent possible consistent with applicable law and RGGS policy
- Information about this Gender-Based Misconduct Policy and Procedures
- The presence of a support person throughout the process
- Participate or to decline to participate in the investigation (however, a decision not to participate in the process either wholly or in part will not prevent the process from

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<sup>8</sup> For Procedures for responding to complaints of gender-based misconduct which do not involve students as Complainants or Respondents, please see the Museum Anti-Harassment Policies and Procedures.

proceeding with the information available)

- A prompt and thorough investigation of the allegations
- Adequate time to review documents in the Title IX Coordinator's office following the investigation
- An opportunity to challenge investigator(s) and member(s) of an Appeal Panel (where applicable) for a possible conflict of interest
- Refrain from making self-incriminating statements
- An appeal of any sanctions
- Notification, in writing, of the case resolution, including the outcome of any appeal
- Report the incident to law enforcement at any time
- Understand that information collected in the process may be subpoenaed in criminal or civil proceedings.

A handout that lists these rights will be provided to both the Complainant and the Respondent, along with the NYS Student's Bill of Rights (for student Complainants and Respondents), during each individual's initial meeting with the Title IX Coordinator.

### Privacy

Information about the investigation and resolution of gender-based misconduct involving students will be revealed only to those who need to know the information in order to carry out their duties and responsibilities. RGGGS will inform all individuals participating in an investigation or proceeding that they are expected to maintain the privacy of the process. This does not prohibit either a Complainant or Respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or similar resources.

### Support Persons

The Complainant and the Respondent, respectively, may be accompanied to any meeting by the support person of their choice throughout the course of intake of a complaint, investigation, resolution, and the appeal process. Witnesses or others involved in the investigation are not permitted to bring another person to any meeting.

Support persons may provide advice during an investigation and throughout the process. Although individual parties are not required to bring their support person to all meetings, they are expected to maintain the same, single support person throughout the process unless there are extenuating circumstances that require them to obtain a replacement. This use of a single, consistent support person enables the process to move forward in an efficient fashion. In the event that an individual party wants to make a permanent change to their support person, they must provide written notice in advance to the Title IX Coordinator.

During meetings, the support person may talk quietly with the individual or pass notes in a non-disruptive manner. The support person may not intervene in a meeting or address the investigator or any panel members,

including by giving evidence, questioning witnesses or making objections. While support persons may provide guidance and assistance, all written submissions must be authored and signed by the Complainant or Respondent personally.

All Museum administrators, including the Title IX Coordinator, will communicate directly with the Complainant and Respondent, rather than with the support person. It is the Complainant's/Respondent's responsibility to communicate with their support person, including but not limited to information related to scheduling and process updates.

Support persons will be expected to sign an agreement to comply with the guidelines just discussed. If a support person fails to abide by such guidelines, he/she may be prohibited from attending ongoing or future meetings.

A Complainant or Respondent may choose to have an attorney serve as his or her support person. Individual parties may retain counsel independently, but RGGs/the Museum will not arrange or pay for an attorney-support person to represent a Complainant or Respondent.

#### Declining to Participate

The Title IX Coordinator will make multiple efforts to engage the participation of the Complainant and/or Respondent in the process; however, either party may decline to participate in any step of this process, including the investigation and/or any subsequent appeal. Declining to schedule a meeting with investigators or refusal to respond to contact by the Title IX Coordinator may preclude or limit participation in later stages of the process, as explained below. Silence or a decision not to participate will not be treated as a negative factor in the investigation, resolution, or appeal.

The process may continue without the Complainant's and/or Respondent's participation. A refusal to participate during the investigation stage of the process will preclude a Complainant or Respondent from submitting new information absent extraordinary circumstances; however, the Complainant or Respondent may submit an impact statement at the sanctioning stage, if applicable, without regard to earlier participation in the process. Even if a party declines to participate, the Title IX Coordinator will continue to update each party throughout the process, unless a party submits a written request to the Title IX Coordinator to cease contact with them.

#### Notice

The Title IX Coordinator will provide notification ("notice") in writing to both the Complainant and Respondent at many points in the process, depending on the stage of the process and needs of each individual party. Notification from the Title IX Coordinator will be sent via e-mail and may include information, such as: a written explanation of the alleged policy violation(s), Complainants' and Respondents' rights and options, interim measures, available accommodations, initiation of an investigation, and the range of possible sanctions or other actions. The Title IX Coordinator will also ensure that the Complainant and Respondent are updated throughout the investigative process, including with timely notice of meetings in which either or both the Complainant and the Respondent may participate.

### Conflicts of Interest

Any individual participating in the investigation or appeal is required to disclose to the Title IX Coordinator any potential or actual conflict of interest. If a Complainant or Respondent believes that any individual involved in the process has a conflict of interest, he or she may make a request to the Title IX Coordinator that the individual not participate. If the Title IX Coordinator determines that a conflict of interest exists, the Title IX Coordinator will take steps to address the conflict in order to facilitate an impartial process.

### Alternative Resolutions to an Investigation

The Title IX Coordinator may seek to resolve certain cases of gender-based misconduct involving students through an alternate resolution process to an investigation, involving both the Complainant and the Respondent. (For example, the Complainant and the Respondent may agree with the Title IX Coordinator that education, training, and a no-contact directive are an appropriate and sufficient response in a particular case). At any time after a report has been filed, either party may request alternate resolution to resolve the issue. This disposition requires agreement of the Complainant and the Respondent, with the approval of the Title IX Coordinator. If the Title IX Coordinator approves such a request, the investigation and the time frames will be stayed, and the Title IX Coordinator will take appropriate steps to assist in reaching a resolution. If the parties cannot reach a resolution within two weeks after one is proposed, the investigation will resume in accordance with the Policy. If an agreement acceptable to all parties is reached through an alternate resolution to an investigation, the matter is considered closed and the terms will be implemented. Examples of alternative resolution options are explained more fully below.

- **Administrative Resolution**

This form of resolution can include no-contact directives, no-contact terms mutually agreed upon by the parties, implementation of safety measures, referrals to counseling, and targeted education and training. Administrative resolution can take place when a Complainant does not want to engage in other resolution processes, or where the Museum, at its discretion and based on the available information, determines that an administrative resolution is appropriate to ensure the safety of the Museum community.

- **Restorative Justice Conference**

A restorative justice (“RJ”) conference is a dialogue, facilitated by the Title IX Coordinator or another Human Resources staff member, intended to restore relationships and repair harm after a conflict has occurred. Both the responsible party and the individuals affected by the conflict come together to identify what harm was caused and, collaboratively, determine how conflict and trust might be, respectively, resolved and repaired. A party may request to engage in RJ at any stage of the process; however, restorative justice may not be an appropriate mechanism for all conflicts. To qualify for RJ, the individual accused of wrongdoing must accept responsibility and express remorse for the harm that was caused. The harmed party must also be willing to accept an apology offered by the individual accused of wrongdoing. Additionally, all involved parties must agree to and abide by measurable and timely actions within the scope of this policy and any directives from the Title IX Coordinator/Human Resources. The Title IX Coordinator/HR will review any request for restorative justice and may decline to initiate RJ based on the facts and circumstances of the particular case. The RJ Conference proceeds only if all parties agree to

participate willingly. Upon doing so, the RJ process typically commences within 10 days after the Title IX Coordinator/HR receives written agreements from all involved parties. The conference will continue until the conference is successfully concluded, or until a determination is made that the conference will not be successful. If successful, an agreeable resolution is reached by all involved parties, at which time the process is concluded, and the matter is resolved. If a resolution cannot be reached, the matter will be referred to the Title IX Coordinator and/or Human Resources, as appropriate, to reevaluate other options for resolution. The Office will monitor the parties' adherence to their proposed solution and reserves the right to close the matter when compliance is satisfactory.

- Voluntary Mediation

Mediation is a forward-looking process – the parties may not agree on the facts, but will be seeking to find a resolution that will allow them to move forward through mutual agreement. The Title IX Coordinator or another staff member within Human Resources may act as the mediator. The Complainant and Respondent may each be accompanied to and assisted during the mediation sessions by a person of their choosing.

If mediation is inappropriate for the situation, or does not resolve it, the Complainant may file a formal complaint and an investigation will be conducted.

#### Initial Assessment of Complaints

The Title IX Coordinator initiates the investigative process once a complaint or report of a violation of this Policy is received and there is adequate information to pursue an investigation. The Title IX Coordinator will conduct an initial assessment and may take any of the following actions:

- The Title IX Coordinator may dismiss the complaint if he/she determines that the complaint does not allege facts that, if substantiated, would constitute a violation of the Policy or that the facts as alleged in the complaint are refuted by evidence or information known to or possessed by the Title IX Coordinator / Human Resources;<sup>9</sup>
- The Title IX Coordinator may refer the complaint to another office or department for review or investigate the matter under a different policy if it determines that the complaint is outside the scope of this Policy; or
- The Title IX Coordinator will review available options for resolution with the Complainant and Respondent, and the Title IX Coordinator may also determine appropriate interim measures, facilitate accommodations, and initiate an investigation if it determines that the complaint or report would, if substantiated, constitute a violation of the Policy.

In each case, the Title IX Coordinator will also assess whether interim measures or accommodations are available and advisable, and work with the individual(s) and departments, divisions or other administrative units to implement those.

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<sup>9</sup> Additionally, should evidence or information become known during the course of an investigation which leads the Title IX Coordinator to conclude that there is no reasonable basis to engage the disciplinary process, the Title IX Coordinator may, in its reasonable discretion and in consultation with appropriate administrators, dismiss the complaint.

## INVESTIGATION AND RESOLUTION PROCESS

The Title IX Coordinator is charged with investigating reports of violations of this Policy. During the investigation, the Complainant and the Respondent have an opportunity to make statements, suggest witnesses, and provide other evidence. Because every case is different, the Title IX Coordinator will tailor each investigation to the specific facts of the case while maintaining for all parties a meaningful opportunity to be heard.

### Investigation

If an investigation is warranted, the Title IX Coordinator may investigate the complaint or designate an investigator from within the Department of Human Resources, or from an outside investigation firm, to investigate whether a violation of this policy occurred. The investigator will have training in investigating and evaluating conduct prohibited under this policy. The investigator will be impartial and unbiased.

The Title IX Coordinator will also notify the parties, in writing, that an investigation will proceed. The notice will describe the allegations in the report and include a scheduled date and time for the Complainant and the Respondent to meet separately with the investigator. The Complainant and the Respondent must respond, confirming receipt of the notice and scheduled meeting time, within 2 days of receiving this notice. Requests to postpone meetings and interviews may be granted, provided that the request is based on a compelling reason, and where possible, Complainants and Respondents should request a postponement at least 24 hours before the scheduled meeting or interview. The process for responding to, investigating and resolving reports of gender-based misconduct involving students will ordinarily continue during any law enforcement proceeding. The Title IX Coordinator may need to temporarily delay an investigation while law enforcement officers are gathering evidence, generally no longer than 10 days, except when law enforcement specifically requests and justifies a longer delay. The Title IX Coordinator will resume the investigation after learning that law enforcement no longer requires a delay or has completed the evidence-gathering stage of their investigation. The Title IX Coordinator will not wait for the conclusion of any related criminal proceeding.

During any meeting and/or interview, the Complainant and Respondent may bring a support person to provide advice and assistance. If the Complainant, Respondent, or support person is unable to be physically present for any stage of the investigative process, reasonable accommodations will be made for their participation by other means, when reasonably feasible (e.g., by teleconference).

### **Complainant Requests Not to Investigate**

The Title IX Coordinator will inform the Complainant before starting an investigation and seek their consent to proceed. The Complainant may request that an investigation not be undertaken. The Title IX Coordinator, in consultation with the Office of General Counsel, will consider such a request in light of RGGGS's commitment to provide a safe and non-discriminatory educational environment and weigh the following factors including, without limitation:

- Circumstances that suggest there is a risk of the Respondent committing additional acts

of gender-based misconduct, such as:

- Whether there have been other gender-based misconduct complaints and/or escalation of previously known conduct by the same Respondent;
  - Whether the Respondent has threatened further gender-based misconduct against the Complainant or others; and/or
  - Circumstances that suggest there is an increased risk of similar future acts of gender-based misconduct
- Whether the alleged gender-based misconduct was committed by multiple perpetrators;
  - Whether there was use of a weapon or force in connection with the gender-based misconduct;
  - Whether the Museum possesses other means to obtain relevant evidence, such as security cameras, witnesses and/or physical evidence; and/or
  - If the Complainant is under 17 years old

The Title IX Coordinator will notify the Complainant in writing whether or not he or she can honor the request not to investigate, including that the determination not to investigate was made at the Complainant's request, where applicable. At the Complainant's written request, the Title IX Coordinator will also notify the Respondent in writing that the Complainant asked the Museum not to investigate.

### **Investigation Procedures**

The Title IX Coordinator may investigate the complaint or may designate an investigator ("the investigator") from within the Museum or from an outside investigation firm to conduct an investigation into whether a violation of the Policy occurred. The investigator will have extensive training in investigating and evaluating conduct prohibited under the Policy. The investigator will be impartial and unbiased.

Each party will meet separately with the investigator. At the initial meeting, the investigator will discuss with each party the nature of the allegations, the rights and responsibilities of each party, the prohibition against retaliation, and the resolution process. The Complainant, the Respondent, support persons, and all witnesses will be required to agree in writing not to engage in retaliation against any participant in the process and not to record, electronically capture or photograph any person or conversation related to this investigation process.

The investigator will ask each party to provide a list of witnesses and/or any relevant documents or evidence. The investigator has the discretion to determine the relevance of any proffered evidence and determine that certain types of evidence should be included or excluded in the determination of responsibility. The Complainant and Respondent must provide to the investigator any relevant and available evidence they wish to be included.

The following protocols apply throughout the investigative process:



- **Statements.** All parties and witnesses are obligated to be honest and act in good faith. Any person who knowingly makes a false statement in connection with the investigation may be subject to separate disciplinary action.
- **Preserving Evidence.** The investigator will direct the Complainant, Respondent, witnesses, and other pertinent individuals to preserve any relevant evidence. Examples include, but are not limited to, electronic messages (e.g., e-mails, text messages and social media messages, writings and photographs).
- **Witnesses.** The Complainant and the Respondent have the right to identify any individuals who may be witnesses to the conduct alleged. The parties should be aware that it is possible for both the Respondent and the Complainant to list the same people as witnesses. Any attempt to threaten, intimidate or otherwise improperly influence the testimony of a witness may result in disciplinary or other action. The investigator will attempt to contact and interview any relevant witnesses identified by the parties, and any other witness the investigator deems to have relevant information. The investigator will not interview expert witnesses (e.g. physicians or therapists), or witnesses whose sole purpose is to provide character information.
- **Romantic or Sexual History in Sexual Assault Cases.** Either the Complainant or the Respondent may provide information regarding their shared romantic or sexual history. If either offers such information, the other will be notified and have the right to respond. Generally, the investigator will not consider information concerning the romantic or sexual history of either the Complainant or the Respondent with other people, except under very limited circumstances such as explaining an injury or responding to another specific question raised by an allegation. If either party offers any of the aforementioned information, the other will be notified and have the right to respond and request this information not be considered. The Investigative Team will determine whether information should be included based on relevance to the investigation, applicable law, and fairness to both parties.
- **Mental Health Treatment/Diagnosis.** Each party has the right to request that evidence regarding his or her mental health diagnosis and/or treatment be excluded from consideration when responsibility is being determined. However, if an individual wishes to present evidence of their own mental health diagnosis and treatment, he/she may do so in limited circumstances. If either party offers this type of information for consideration, the other party will be notified and can request that the information not be considered.
- **Prior Conduct Violations.** In investigating complaints of gender-based

misconduct, prior reports or determinations of responsibility for such misconduct will not be considered in determinations of responsibility, and will therefore not be addressed in an Investigative Report. However, prior determinations of responsibility for allegations of the same type of gender-based misconduct may be admissible in the sanctioning stage of the process.

- **Credibility Assessment.** The investigator will use the following factors when assessing the credibility of parties and the witnesses: the consistency or inconsistency of their accounts of events over time; their demeanor during interviews; their possible motivation to lie; any corroborating evidence; and whether their statements included specific details that were reasonable and logical.
- **Review of Statement.** Prior to the conclusion of the investigation, the Complainant and Respondent will each have an opportunity to review the investigator's written recitation of the statements he or she presented during his or her own interview(s) and to provide the investigator with any corrections or clarifications that may be necessary. The investigator will determine if the corrections or clarifications to the witness statements will be incorporated.

### **Investigation Findings**

Following the completion of the investigation, the investigator will prepare a written summary of findings clearly setting forth the prohibited conduct alleged, a summary of the accounts and evidence (including where accounts or evidence conflict), and the investigator's findings.

### Determination of Responsibility and Discipline

If the investigation reveals by a preponderance of the evidence (i.e. "more likely than not") that the Respondent violated this policy, the Title IX Coordinator will meet with the Dean of RGGGS, the Senior Vice President overseeing the MAT Program or the Senior Vice President overseeing the Respondent's area (as applicable) to determine the appropriate disciplinary sanction after considering the relevant factors, which include the severity of the violation, the circumstances surrounding the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.), the Respondent's state of mind (intentional, knowing, reckless, negligent, etc.), the Respondent's history of misconduct, including prior findings of sexual misconduct, the ongoing impact on the Complainant, the ongoing impact on the RGGGS/Museum environment, and any ongoing threat to the RGGGS or Museum community.

### Impact Statement

Complainants and Respondents can submit impact statements to the Title IX Coordinator while he or she is considering appropriate sanctions with the Respondent's supervisor, as described above. The purpose of an impact statement is to discuss how the alleged misconduct and the disciplinary process impacted the individual,

and must be prepared by the party and be no more than five single-spaced typed pages, using 12-point Times New Roman font and one-inch margins. Any impact statement must be submitted to the Title IX Coordinator within three days following receipt of the notice of outcome.

### **How Sanctions Are Determined**

In determining a sanction, the Title IX Coordinator with the Dean of RGGGS, the Senior Vice President overseeing the MAT Program or the Senior Vice President overseeing the Respondent's area (as applicable), will impose sanctions that are:

- Fair and appropriate, given the facts of the particular case
- Consistent with the Museum's handling of similar cases
- Adequate to protect the safety of the RGGGS/Museum community
- Reflective of the seriousness of gender-based misconduct.

In determining an appropriate sanction, the Title IX Coordinator, Dean of RGGGS, Senior Vice President overseeing the MAT Program or Senior Vice President overseeing the Respondent's area (as applicable) will take into account the following considerations:

- The specific gender-based misconduct at issue (such as, , , offensive comments based on gender stereotypes, unauthorized recording, etc.);
- The circumstances accompanying the lack of consent (such as force, threat, coercion, intentional incapacitation, etc.);
- The Respondent's state of mind (intentional, knowing, bias-motivated, reckless, negligent, etc.);
- The impact of the offense on the Complainant;
- The Respondent's prior disciplinary history;
- The safety of the Museum community;
- The Respondent's candor in responding to the complaint; and
- Any other mitigating or aggravating circumstances in order to reach a just and appropriate resolution in each case.

The Title IX Coordinator, Dean of RGGGS, Senior Vice President overseeing the MAT Program or Senior Vice President overseeing the Respondent's area (as applicable) will also identify permanent remedies that seek to address the effects of the conduct on the Complainant, restore the Complainant's safety and well-being, and protect the Complainant's educational and employment opportunities. Such remedies should restore to the Complainant, to the extent possible, all benefits and opportunities lost as a result of the prohibited conduct. Permanent remedies may include extending or making permanent any interim measures.

Possible sanctions include but are not limited to one or more of the following:

- Reprimand/warning
- Changing the Respondent's academic schedule and responsibilities
- Disciplinary probation
- Revocation of honors or awards
- Restricting access to Museum or RGGGS facilities, resources or activities (including student activities and campus organizations)
- Removal from leadership/supervisory positions within the Museum community
- Issuing a "no contact" order to the Respondent or requiring that such an order remain in place
- Expulsion
- Revocation of degree
- Termination or suspension of program registration, financial support, or academic or professional appointment
- Termination or suspension from the Museum or RGGGS

In addition to any other sanction (except where the sanction is expulsion or revocation of a degree), a Respondent determined to be responsible for a violation of the Policy may be required to receive appropriate education and/or training related to the gender-based misconduct at issue. Counseling or other support services for the Respondent may be recommended.

When a Respondent is found responsible, and the sanction includes suspension or expulsion from their job or academic duties, the individual may be either severely restricted in their movements on the Museum/RGGGS premises or barred completely from the premises during the entirety of the appeal-filing period and appeal process. If a Respondent is eligible for return to RGGGS or to work at the Museum while a Complainant is still enrolled at RGGGS or employed by the Museum, the Complainant will, at the earliest possible date, be notified in writing of the Respondent's intention to return.

In addition, with regard to student Respondents, pending an investigation, a determination and/or appeal, an "administrative hold" may be placed on a student Respondent's RGGGS transcript, diploma, registration, fellowship or other payments, and/or student account until this process is resolved. Upon conclusion of the appeal, if any, a permanent transcript notation will be indicated on the record for cases resulting in suspension or expulsion. If a student is found responsible through this process for crime(s) of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the Jeanne Clery Disclosure of Campus Security Police and Campus Crime Statistics Act (the "Clery Act"), or if a student is otherwise found responsible for gender-based misconduct and the sanction is suspension or expulsion, the Dean of RGGGS or the Senior Vice President overseeing the MAT Program will direct that a notation be placed on the student's transcript as follows:

- Where the sanction is a suspension, the following notation will be listed: "SUSPENDED

AFTER A FINDING OF RESPONSIBILITY FOR A CODE OF CONDUCT VIOLATION.”

- Where the sanction is expulsion, the following notation will be listed: “EXPELLED AFTER A FINDING OF RESPONSIBILITY FOR A CODE OF CONDUCT VIOLATION.”

If a student respondent withdraws from RGGGS while such charges are pending for allegation(s) related to sexual violence as defined in the Clery Act, and the student declines to complete the student conduct process, the Dean of RGGGS or Senior Vice President overseeing the MAT Program will direct that the following notation be placed on the student’s transcript: “WITHDREW WITH CONDUCT CHARGES PENDING.”

- Those students who withdraw from RGGGS and decline to complete the student conduct process forfeit any right to resume the conduct proceedings at any point in the future.
- Conduct charges are considered “pending” once a student is informed in writing that there are allegations that the student may have violated the Policy.

A student may file an appeal seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

### **Notice of Outcome**

The Title IX Coordinator will inform the Complainant and the Respondent simultaneously and in writing of the outcome of the complaint (i.e., the determination regarding whether the alleged conduct occurred and whether it was a violation of this Policy) and the procedures and the time frame for the Complainant and the Respondent to request appeal. The Title IX Coordinator will also inform the Complainant regarding individual remedies offered or provided to the Complainant or any sanctions imposed on the Respondent that directly relate to the Complainant, as well as other steps the Museum/RGGGS has taken or will take to eliminate the hostile environment, if one was found to exist, and prevent recurrence. The Respondent will be notified of any sanctions imposed, but not of the individual remedies offered or provided to the Complainant to the extent they are different from those sanctions.

The Title IX Coordinator will also inform other RGGGS and Museum officials as appropriate.

### **Appeals**

Either the Complainant or the Respondent may, within seven (7) calendar days of receiving notice of the decision and sanctions (if applicable), request an appeal. There are two grounds for appeal: (1) previously unavailable relevant evidence which could significantly impact the outcome of the matter; or (2) a sanction is substantially disproportionate to the findings. Disagreement with the finding is not, by itself, grounds for appeal. Individuals who have refused to participate in the process forfeit their right to appeal the determination.

If the Respondent is a tenured faculty member and the sanction is termination, the appeal shall be heard by the

Provost and if affirmed by the Provost, the sanction shall be subject to the termination procedures set forth in the Policy to Govern the Conditions of Employment, Service and Responsibilities of the Scientific Staff. If the appeal is by an individual subject to a collective bargaining agreement, it shall be addressed as provided in that contract. For all others, the appeal process is specified below.

To request an appeal, the appealing party must submit to the Title IX Coordinator a letter stating the grounds for the appeal in reasonable detail and how those grounds materially affected the outcome, and provide supporting information including all materials that the party requesting review wishes to have considered. If it is determined that the request states one of the allowable grounds for review, the Title IX Coordinator will provide a copy of the request for appeal to the other party and invite the other party to submit, within seven (7) calendar days, a statement and supporting materials in response to the submission of the party requesting review. During that time, both the Complainant and the Respondent will have an opportunity to review any written findings prepared by the investigator (redacted to remove the names and personally identifying information of other students or individuals, as required by law or by requirements of confidentiality), but copies of the findings will not be provided to them. Should the appealing party wish to amend their previously submitted appeal during this seven day period, they may do so and submit any revisions or additions to the Title IX Coordinator for consideration.

Failure to meet the deadline for appeal shall result in waiver of the right to appeal. The Museum reserves the right to investigate and take any necessary action of its own accord based on new information or events that were not known during an initial investigation.

Appeals will be addressed as follows, based on the identity of the Respondent.

#### *Composition of Appeal Panel & Appeal Procedure*

When the Respondent is a student, the Title IX Coordinator will form an Appeal Panel including the Dean of RGGS, the Senior Vice President overseeing the MAT Program, and the Museum Ethics Officer. When the Respondent is not a student, the Title IX Coordinator will convene an Appeal Panel composed of the Dean of RGGS or Senior Vice President overseeing the MAT Program (determined by the program in which the student is enrolled) and two individuals selected from among the directors of the Museum or above.

The Title IX Coordinator will forward to the Appeal Panel the investigator's findings, the letter requesting the appeal and any statements or other supporting materials submitted in response by the non-appealing party. The Appeal Panel may conduct such proceedings as it deems appropriate, but will not normally hear the testimony of witnesses. The Appeal Panel will generally render a written decision within fifteen (15) business days of the last written submission by either of the parties, depending on the availability of the Appeal Panel at the time of the appeal. The parties will be notified if there is any delay in providing an appeal decision. The Appeal Panel may affirm the findings and/or sanction, revise the sanction, or remand (return) the matter for further consideration by the Title IX Coordinator. If the matter is remanded to the Title IX Coordinator, the Appeal Panel will provide corrective suggestions with the remand/referral. The Appeal Panel's decision will be in writing and, except in the case of a remand/referral, is final.

Any discipline imposed prior to the filing of the appeal will stand while the appeal is pending. Discipline may also be imposed while the appeal is pending. Discipline may be reduced or increased by the Appeal Panel. A Respondent found responsible for violation of this Policy, and for whom the sanction of suspension or dismissal from RGGGS or termination of employment at the Museum has been imposed, may be required to leave RGGGS or the Museum during the time the appeal is pending. This decision will be made by the Dean of the RGGGS or the Senior Vice President overseeing the MAT Program, as applicable, in the case of a student Respondent and by the Title IX Coordinator in consultation with the Dean of the RGGGS or the Senior Vice President overseeing the MAT program, as applicable, in the case of an employee Respondent.

In the event of a remand, the Appeal Panel, as appropriate, may conduct such further proceedings as they deem appropriate under the circumstances, consistent with this Policy, provided that the Complainant and Respondent will each be given an equal chance to present and review new evidence. Appeal of decisions after remand may be requested by either party under the above procedure.

### Time Frames

RGGGS and the Museum will seek to resolve every report of gender-based misconduct involving students as expediently and efficiently as possible. Many complaints may require extensive review, and time frames will vary depending on the complexity of the investigation and the severity and extend of the alleged misconduct. Time frames may be extended for alternate resolutions and/or good cause as necessary to ensure the integrity and completeness of this process. The reasons for extension of the time frame also include, but are not limited, to: compliance with a request by law enforcement; accommodation of the availability of witnesses; and/or accounting for exam periods, school breaks or vacations. The Title IX Coordinator will notify the parties in writing of the extensions of the time frame.

Generally, the timeline will be as follows (calculated in calendar days). To the extent a deadline is calculated in calendar days and falls on a weekend or Museum holiday, the deadline will be effective on the next business day:

- Investigation will commence within 5 days and be completed within 21 days after the investigation begins
- Investigative report on the outcome of the complaint will be completed within 10 days after the investigation concludes
- Appeals are due from either party within 7 days after the investigative report
- Review and response to an appeal is due within 5 days after the notice of appeal is issued to the Complainant and Respondent
- Decision by the Appeal Panel is due within 15 days after the notice of appeal The Title IX Coordinator will provide both parties with periodic updates.

### Ongoing Accommodations for Complainant

Whatever the outcome of the process, a Complainant may request ongoing or additional accommodations, and the Title IX Coordinator, in consultation with the appropriate administrator of the Museum or RGGGS, will determine whether such measures are appropriate. Potential accommodations include:

- Providing a security escort for the Complainant on Museum premises
- Changing the Complainant's academic or work schedule
- Allowing the Complainant to withdraw from or retake a class without penalty
- Providing access to tutoring or other academic support, such as extra time to complete or re-take a class or complete other academic requirements

### **Additional Responses**

The Museum may also determine that additional measures are appropriate to respond to the effects of an incident on the Museum community. Additional responses for the benefit of the Museum community may include:

- Increased monitoring, supervision, or security at locations or activities where the misconduct occurred
- Additional training and educational materials for students, employees and other members of the Museum community
- Revision of the Museum's policies on gender-based misconduct
- Climate surveys regarding gender-based misconduct

### Records Disclosure

Disciplinary proceedings with regard to a student are subject to the Family Educational Records and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the Museum without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Any information gathered in the course of an investigation may be subpoenaed by law enforcement authorities as part of a parallel or subsequent investigation into the same conduct, or required to be produced through other compulsory legal processes.

Additional information about FERPA can be found in the RGGGS Comparative Biology Ph.D. Program and MAT Program Student Handbooks.

### Amendments

This Policy and/or the Procedures may be amended from time to time. Nothing in the Policy or Procedures shall affect the inherent authority of the Museum to take such actions as it deems appropriate to further the educational mission or to protect the safety and security of the RGGGS and Museum community.



## NEW YORK STATE STUDENT'S BILL OF RIGHTS

New York State law requires that all institutions of higher education in New York publish the following Bill of Rights for all students attending higher education institutions in the State.

All students have the right to:

1. Make a report to local law enforcement and/or state police
2. Have disclosures of domestic violence, dating violence, harassment, stalking, sexual exploitation, sexual assault, and retaliation treated seriously
3. Make a decision about whether or not to disclose a crime or violation and participate in the Museum gender-based misconduct process and/or criminal justice process free from pressure by the Museum
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 to receive from the Museum courteous, fair, and respectful health care and counseling services, where available
6. Be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations
7. Describe the incident to as few Museum representatives as practicable and not be required to unnecessarily repeat a description of the incident
8. Be protected from retaliation by the Museum, any student, the accused and/or the Respondent, and/or their friends, family, and acquaintances within the jurisdiction of the Museum
9. Access to at least one level of appeal of a determination
10. Be accompanied by a support person of choice who may assist and advise a Complainant, accused, or Respondent through the judicial or conduct process included during all meetings related to such process
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the Museum

CONTACT INFORMATION  
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AND THE TITLE IX COORDINATOR

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## Off-campus Resources for Individuals Involved in Gender-Based Misconduct \*\*

Unless otherwise noted, all facilities listed below are available 24 hours a day.

◆ indicates facilities that are not available 24 hours a day. \*\*Fees may apply.

### Off-campus Advocacy, Counseling and Health Services

Safe Horizon  
212-523-4728

Mt. Sinai St. Luke's Hospital  
Crime Victims Treatment Center ◆ 212-523-4728 by appointment only

New York-Presbyterian/CUMC Emergency Room 212-305-6204

NYC Domestic Violence Hotline 800-621-HOPE (4673)

Gay and Lesbian Anti-Violence Project  
212-714-1141

#### Neighboring Hospitals with Safe Centers:

Mt. Sinai St. Luke's Hospital  
1111 Amsterdam Ave at West 113th St

Roosevelt Hospital  
1000 10th Ave at West 58th St

Beth Israel-Petrie Campus  
First Ave at E 16th St

Bellevue Hospital  
462 First Ave at E 27th St

Harlem Hospital  
506 Malcolm X Blvd at W 135th St

Metropolitan Hospital Center  
1901 1st Ave at 96th St

Mount Sinai Medical Center (Mount Sinai),  
1 Gustave L Levy Pl (Fifth Ave) at E 98th St

New York-Presbyterian Columbia  
(NYP) 622 W 168th St

New York-Presbyterian The Allen Pavilion (NYP),  
5141 Broadway at W 221th St

### Off-campus Law Enforcement

New York City Police Department (NYPD)  
Emergency 911  
20th Precinct 212-580-6411  
120 West 82nd Street (between Columbus and Amsterdam Avenues)

Domestic Violence & Child Abuse  
Hotline 212-335-4308

Sex Crimes Hotline 212-335-9373

Special Victims Bureau at the Manhattan Family Justice  
Center 212-335-4300

### Additional Government Resources

The government resources listed here may provide additional assistance for students wishing to file an external complaint of gender-based misconduct or students with inquiries regarding the application of Title IX and its implementing regulations:

NYC Family Justice Center Manhattan ◆  
<http://www.nyc.gov/html/ocdv/html/help/fjc.shtml>  
212-602-2800 | 80 Centre St New York, NY 10013

New York State Office of Victims Services ◆  
1-800-247-8035 | <https://ovs.ny.gov/>

Together Against Sexual Violence ◆  
<http://www.notalone.gov>

U.S. Department of Education, Office for Civil Rights ◆  
<http://www.ed.gov/ocr>  
New York – Region II  
32 Old Slip, 26th Floor New York, NY 10005 646-428-3800  
OCR.NewYork@ed.gov

U.S. Department of Justice, Office on Violence Against Women ◆  
<http://www.ovw.usdoj.gov>  
145 N St, NE, Suite 10W.121 Washington, D.C. 20530  
202-307-6026

## A Plain Language Explanation of Distinctions Between the New York State Penal Law and the RGGGS Disciplinary Processes

	<b>Criminal Justice System</b>	<b>RGGGS Disciplinary System</b>
<b>Goals.</b>	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.
<b>Governing Law.</b>	New York State Penal Code; New York State Rules of Criminal Procedure (or another state's rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	NYS Education Law sections 129-A and 129-B.
<b>How to report and whether there must be action once a report is made.</b>	Crimes involving sexual violence may be reported to Museum Security, the New York City Police Department, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Victims may disclose sexual violence to various Museum/RGGGS employees who will try to ensure privacy to the extent consistent with the institution's obligation to provide a safe educational environment, as well as the St. Luke's Crime Victims' Treatment Center or the licensed social worker with whom the Museum has contracted. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator (TIXC) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.
<b>Who investigates?</b>	Police or other law enforcement officials.	Investigators employed or retained by the Museum; these individuals may work for different departments within the institution, including, but not limited to Human Resources.
<b>Procedures</b>	See Governing Law. Procedures established by police departments, prosecutors' offices, etc.	Museum and RGGGS policies, which generally incorporate requirements of Governing Law. Collective bargaining agreements may impact some procedures.
<b>Standard of Evidence.</b>	Crimes must be proven "Beyond a Reasonable Doubt"	A violation of disciplinary rules must be found by a "Preponderance of the Evidence" (more likely than not)
<b>Confidentiality.</b>	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	RGGGS offers some confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved.
<b>Privacy.</b>	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within RGGGS, the parties, and pursuant to this policy and all applicable laws.
<b>Who are the parties?</b>	The prosecution and defendant. The victim/survivor is <u>not</u> a party, but often the critical witness for the prosecution.	The reporting individual and accused/Respondent.

<b>Participation in the process.</b>	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual's participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	Reporting students cannot be required to participate in the RGGGS process. However, RGGGS will be limited in its ability to respond if a reporting individual does not participate.
<b>Who initiates the proceedings?</b>	A prosecutor, acting on behalf of the state (or the United States in federal cases).	The Museum initiates the process (i.e., an investigation and any subsequent disciplinary action). The reporting individual can play an active role.
<b>Testimony.</b>	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	Students are not required to testify and/or to be subjected to direct cross-examination, except in Title IX formal grievance proceedings.
<b>Role of attorneys.</b>	Both the state and the defendant are represented by counsel; counsel may question witnesses.	The parties may be advised by attorneys, but the attorneys' role is limited to quietly speaking with their clients or passing notes.
<b>Mental Health and Sexual History.</b>	In New York, a reporting individual's prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted.	Generally not admissible, but subject to quite limited exceptions. Education Law 129-B permits parties, with limited exceptions, to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own mental health history in the factfinding phase of the disciplinary process.
<b>Possible Results.</b>	If a prosecution takes place, the defendant may <ul style="list-style-type: none"> <li>• plead guilty or "no contest"</li> <li>• have the case dismissed by the judge (on legal grounds)</li> <li>• be found "guilty" or "not guilty" by a judge or jury</li> </ul>	RGGGS permits mediation or other alternative resolution procedures if the parties agree. If there is a formal proceeding, the Respondent may be found "responsible" or "not responsible" for violations of RGGGS policies. Respondents may also accept responsibility before a finding.
<b>Sanctions.</b>	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating RGGGS policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior disciplinary history), ranging from a warning to suspension or expulsion from the institution.