Sexual Misconduct & Sexual Assault

Summary: This document outlines Rocky Mountain College’s policies and procedures regarding sexual misconduct and sexual assault.

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1. POLICY STATEMENT
Sexual misconduct and sexual assault are unacceptable and will not be tolerated at Rocky Mountain College. The College urges an individual who has been subjected to sexual misconduct or sexual assault to make an official report. A report of the matter will be dealt with promptly. Confidentiality will be maintained to the extent possible. The College is committed to providing information regarding on- and off-campus services and resources to all parties involved. Students, faculty and staff found to be in violation of this policy will be subject to discipline up to and including termination, expulsion or other appropriate institutional sanctions; affiliates and program participants may be removed from College programs and/or prevented from returning to campus. A comprehensive website dedicated to sexual violence awareness, prevention and support can be found at http://www.rocky.edu/student-life/dean-student-life/SexualMisconductAssaultPolicies.php. The site contains a list of resources, describes reporting options and has an anonymous notification form.

2. WHAT IS SEXUAL MISCONDUCT?
Sexual misconduct is the commission of an unwanted sexual act, whether by an acquaintance or by a stranger, that occurs without indication of consent.

3. WHAT IS SEXUAL ASSAULT?
Sexual assault is the actual, attempted or threatened unwanted sexual act, whether by an acquaintance or by a stranger, accomplished (1) without consent by means of force (express or implied), violence, duress, menace, fear or fraud, or (2) when a person is incapacitated or unaware of the nature of the act, due to unconsciousness, sleep and/or intoxicating substances.

4. WHAT IS CONSENT?
Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. If coercion, intimidation, threats and/or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes
conditions due to alcohol or drug consumption or being asleep or unconscious. Whether one has taken advantage of a position of influence over another may be a factor in determining consent.

5. RETALIATION
It is a violation of College policy to retaliate against any person making a complaint of sexual misconduct or sexual assault or against any person cooperating in the investigation of (including testifying as a witness to) any allegation of sexual misconduct or sexual assault. For students, retaliation should be reported promptly to a Student Life Dean or Residence Life administrator (RA, RD, Director). For faculty and staff, retaliation should be reported to the Human Resources Office.

6. CONFIDENTIALITY OF INFORMATION
The College will make reasonable and appropriate efforts to preserve an individual’s privacy and protect the confidentiality of information. However, because of laws relating to reporting and other state and federal laws, the College cannot guarantee confidentiality to those who report incidents of sexual violence except where those reports are privileged communications with those in legally protected roles (set forth below). The professional being consulted should, if possible, make these limits clear before any disclosure of facts. An individual can speak confidentially with certain individuals in legally protected roles. They include sexual assault counselors and clergy. Exceptions to maintaining confidentiality are set by law; for example, physicians and nurses who treat any physical injury sustained during a sexual assault are required to report it to law enforcement. Also, physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a sexual assault committed against a person under age 18. Information shared with other individuals is not legally protected from being disclosed.

Considerations with respect to a complainant’s request for confidentiality include factors such as the College’s ability to respond effectively, to prevent further harassment or to ensure the safety of the College community. For example, a faculty advisor, the Associate Dean for Student Life, a Residence Director (RD) or a Resident Assistant (RA) may need to inform other individuals to protect their safety or rights, in fairness to the persons involved, or in response to legal requirements. As required by law, all disclosures to any College employee of an on-campus sexual assault must be reported for statistical purposes only (without personal identifiers) to the Rocky Mountain College Campus Safety Department, which has the responsibility for tabulating and annually publishing sexual assault and other crime statistics. Such reports are for statistical purposes and do not include individual identities. State law permits law enforcement authorities to keep confidential the identity of a person officially reporting a sexual assault. The Rocky Mountain College Campus Safety Department policy is to maintain such confidentiality. However, if the City Attorney files a criminal charge, confidentiality may not be maintained. If a complaint is filed through the Student Conduct system, then the accused student must be provided with the name of the alleged victim and witnesses, if applicable.

7. EDUCATION AND PREVENTION
Resources — Rocky Mountain College provides resources for education about and prevention of sexual misconduct and assault. Students, faculty and staff are urged to take advantage of on-campus prevention and educational resources (both College-supported and student-led) and are encouraged to participate actively in prevention and risk reduction efforts. The Campus Safety Office provides comprehensive and consistent response to incidents of sexual and relationship violence to the campus community.

The Associate Dean for Student Life provides case consultation to students and staff, case management for reported assaults, and information and referrals to services on and off campus. The office also assists with educational outreach and training to increase awareness, sensitivity and community accountability
in the prevention of these acts. Online information is available at [http://www.rocky.edu/student-life/dean-student-life/SexualMisconductAssaultPolicies.php](http://www.rocky.edu/student-life/dean-student-life/SexualMisconductAssaultPolicies.php). The Human Resources Department provides training programs regarding sexual harassment for the campus community. Some programs are required for faculty, staff supervisors, instructors and newly hired staff. Information is available by contacting the department at (406)657-1043. The Rocky Mountain College Department of Residence Life and the Campus Safety Office conducts educational programs and distributes educational literature to students, faculty and staff.

8. RESOURCES FOLLOWING AN ACT OF SEXUAL MISCONDUCT OR SEXUAL ASSAULT
Whether a victim of sexual misconduct or sexual assault chooses to make an official report, he or she is urged to seek appropriate help. There are numerous resources for faculty, staff, student and visitors to campus (see list below). Specific resources, either on or off campus, for medical treatment, legal evidence collection, obtaining information, support and counseling and officially reporting a sexual misconduct or sexual assault are listed below. Each resource can assist a person to access the full range of services available.

a. Services Available 24 Hours a Day
Emergency medical and police services, call 911 (or 8-911 from campus). Individuals may also go to the nearest hospital emergency department (Saint Vincent’s Hospital or Billings Clinic).

The YWCA Gateway House in Billings has a 24-hour telephone line at (406) 259-8100.

Sexual Assault Services (formerly Rape Task Force), (406) 259-8100

Billing Community Crisis Center, (406) 259-8800

Rocky students may contact an RA and request that the on-call Residence Director be contacted.

b. Medical Treatment — An individual who has been sexually assaulted is urged to seek appropriate medical evaluation as promptly as possible.

i. For life-threatening conditions, call 911 (or from a campus phone, call 8-911).

ii. For treatment of less serious injuries, students can use the Rocky Mountain College Health Center (657-1068) or, if closed, the nearest hospital emergency department (Saint Vincent’s Hospital or Billings Clinic). Faculty and staff should consult their primary care physician.

iii. For evaluation and prevention of sexually transmitted diseases and pregnancy, as well as consultation for other health issues, students can use the Rocky Mountain College Health Center. Faculty and staff should consult their primary care physician.

c. Medical-Legal Evidence Collection — An individual who has been sexually assaulted is encouraged to request collection of medical-legal evidence. Prompt collection of physical evidence is essential should a person later decide to pursue criminal prosecution and/or a civil action (see 9.d., Legal Options).

Federal law provides for free medical-legal exams to victims of sexual assault. See the Violence Against Women Act of 2005 42 U.S.C. § 3796gg-4(d). For assistance in seeking such an exam, contact the YWCA...
Faculty and staff should contact the Human Resources Office.

Please note that St. Vincent and Billings Clinic are mandated assault reporters under state law and may have legal obligations to provide a report of an assault to a police agency.

d. Obtaining Information, Support and Counseling — Whether one chooses to make an official report, an individual who has suffered an act of sexual misconduct or sexual assault is encouraged to obtain information, support and counseling. Counselors at a variety of agencies, both on and off campus, can help that person decide what steps to take, such as seeking medical attention, preserving evidence, obtaining counseling or reporting to authorities. Information, support and advice are available (see resources below) for anyone in the Rocky community who wishes to discuss issues related to sexual misconduct or sexual assault, whether sexual misconduct or sexual assault has actually occurred and whether the person seeking information has been assaulted, has been accused of sexual misconduct or sexual assault, or is a third party. The degree to which confidentiality can be protected depends upon the professional role of the person being consulted and should be addressed with that person before specific facts are disclosed, if possible (see section 6, Confidentiality of Information).

Students may consult:
YWCA Gateway House—(406) 259-8100
Associate Deans for Student Life—(406) 657-1099
Campus Counselor—(406) 657-1049
RMC Health Center—(406) 657-1068
Campus Chaplain—(406) 657-1098
Office for Campus Safety—(406) 238-7293
Vice President for Student Life—(406) 657-1018

e. Officially Reporting an act of Sexual Misconduct or Sexual Assault — A member of the College community who has suffered an act of sexual misconduct or sexual assault is encouraged to make an official report as soon as possible, whether he/she intends at that time to seek criminal or civil redress or pursue internal disciplinary measures. Even when a victim of sexual misconduct or sexual assault is not willing to bring forward a disciplinary case, a victim may benefit from appropriate academic and housing accommodations from the College through the Associate Dean of Student Life, Residence Life Staff or the Campus Safety Office.

For a sexual assault that occurs on the campus, contact the Residence Life Staff (RA, RD, Director of Residence Life), 657-1051, the Associate Dean for Student Life, 657-1099, or Campus Safety Office, 238-7293.

For an off-campus incident, call the police, call 911 or (406) 657-8460. Rocky Mountain College students should contact the Office of the Associate Dean for Student Life, 657-1099 (if the assailant is a Rocky student), the Dean of Student Life at 657-1018 or the Campus Safety Office at 238-7293.

Faculty and staff should contact the Human Resources Office.
9. POLICY ENFORCEMENT
This policy was authorized and approved by the President of Rocky Mountain College and is enforced under the authority of the Vice President for Student Life. In addition to institutional consequences, an individual who violates this policy may be subject to criminal prosecution and/or civil litigation. For all complaints of alleged sexual misconduct or sexual assault, regardless of what type of resolution the complainant wishes to pursue, the College may in its discretion undertake appropriate inquiry and take such prompt and effective action as is reasonably practicable under the circumstances to support and protect the complainant, including taking appropriate interim measures (such as removing or banning an alleged assailant from campus) before the final outcome of the investigation and/or hearing, if any.

a. Disciplinary and Other Administrative Actions for Students — An act of sexual misconduct or sexual assault is a violation of the Fundamental Standard governing student behavior. The process and procedures governing student disciplinary cases involving sexual misconduct and sexual assault are found on the Student Conduct website, http://www.rocky.edu/student-life/dean-student-life/StudentConduct.php.

The Student Life Department (657-1018) investigates all formal complaints of student misconduct, including allegations of sexual misconduct and sexual assault, and files formal charges if the evidence supports the allegation. Sanctions, for students found responsible for such a violation, range from a formal warning to expulsion from the College. Mediation between parties is not available in cases of sexual assault or misconduct.

Rocky Mountain College processes guarantee that the rights of students, including those of the accused, are protected. The College will maintain the confidentiality of students involved in disciplinary cases; in situations involving an allegation of sexual misconduct and/or sexual assault; however, the reporting individual and the accused student may each choose to be accompanied by a person of his or her choice at all stages of the disciplinary process. Each student will be kept informed of the status of an investigation and its outcome. For more information go to http://www.rocky.edu/student-life/dean-student-life/StudentConduct.php.

b. Disciplinary Action for Faculty and Staff — Violations of this policy are addressed according to applicable faculty and staff personnel policies. When violations are found, possible sanctions range from censure to dismissal from the College.

c. When Complainant does not want to pursue resolution or requests confidentiality
If a complainant does not want to pursue a formal resolution or requests that the complaint be kept confidential, Title IX nevertheless requires the College to investigate and take reasonable action in response to the complainant’s information. The complainant will be informed that the College’s ability to respond may be limited if confidentiality is requested. The College may conduct a preliminary investigation into the alleged misconduct or assault and weigh the request for confidentiality against the following factors: the seriousness of the alleged misconduct, whether there have been other complaints against the same accused and the accused’s right to receive information about the allegations.

d. Legal Options — In addition to College disciplinary actions, a person who engages in a sexual assault may be the subject of criminal prosecution and/or civil litigation. A police report must be made before a criminal prosecution can be considered by the City Attorney’s Office. The chances of successful prosecution are greater if the report to the police is timely and is supported by the collection of medical-legal evidence (see 8.c., Medical Legal Evidence Collection). Because the standards for finding a
10. INSTITUTIONAL RESPONSES
a. Public Information — Requests for information concerning an incident of sexual misconduct or sexual assault should be directed to the Rocky Mountain College Communications Department (406) 657-1104 or the Rocky Mountain College Office for Campus Safety (238-7293).

b. Public Notification of Incidents — As required by state and federal law, the Rocky Mountain College Campus Safety Office must collect and report annually statistical information concerning sexual assaults occurring on campus. To promote public safety, the Department also alerts the campus community to incidents and trends of immediate concern.

11. SEXUAL MISCONDUCT & SEXUAL ASSAULT CONDUCT PANEL
a. General Policies
Sexual misconduct and sexual assault are unacceptable and will not be tolerated at Rocky Mountain College. The College urges an individual who has been subjected to sexual misconduct or sexual assault to make an official report. A report of the matter will be dealt with promptly. Confidentiality will be maintained to the extent possible. The College is committed to providing information regarding on and off-campus services and resources to all parties involved. Students, faculty and staff found to be in violation of this policy will be subject to discipline up to and including termination, expulsion or other appropriate institutional sanctions; affiliates and program participants may be removed from College programs and/or prevented from returning to campus.

b. Sexual misconduct is the commission of an unwanted sexual act, whether by an acquaintance or by a stranger, that occurs without indication of consent.

c. Sexual assault is the actual, attempted or threatened unwanted sexual act, whether by an acquaintance or by a stranger, accomplished (1) against a person’s will by means of force (express or implied), violence, duress, menace, fear or fraud, or (2) when a person is incapacitated or unaware of the nature of the act, due to unconsciousness, sleep and/or intoxicating substances.

All formal complaints alleging sexual misconduct and/or assault will be referred to the Conduct Panel for adjudication.

Any student who has a question or concern that he or she is being or has been a victim of Sexual Misconduct or Sexual Assault should contact the Vice President for Student Life (657-1018) or one of the liaisons listed below. The liaisons can assist in determining an appropriate response to an alleged incident.
Students may contact one of the following College community members if they have questions or concerns about sexual misconduct or assault:

Vice President for Student Life ............... 657-1018  
Associate Dean for Student Life .............. 657-1099  
Campus Counselor ......................... 657-1049  
Executive Director of Human Resources .. 657-1160

d. Student Complaint Resolution Procedure
The following represents the procedure for resolving incidents where Sexual Misconduct and/or Assault has been alleged.

e. Formal Complaint
1. Students may bring formal complaints to the Vice President for Student Life (VPSL).
2. The complainant may have another person present information at discussions of the complaint.
3. After discussion with the Vice President for Student Life, an official investigative officer will be appointed to formally review the complaint. The complainant submits a signed petition describing the complaint and requesting a formal investigation. In some cases it may be appropriate for the designated officer to draft the petition. Additional investigative officers may be designated by the president of the College as needed (see item #7, Complaint process).
4. The petition will be shown to the accused person, who may then file a written response within five working days.
5. The proceedings described here are not those of a court of law and the participation of legal counsel is not permitted during these discussions.

f. The Formal Complaint Process/Timeline
The timetable set forth below is approximate. The Vice President for Student Life, in consultation with the investigative officer may, at his or her discretion, allow additional time for any of the steps noted.
1. Within three (3) working days of receiving the written complaint, the investigative officer will consult with the relevant parties, including the complainant and the accused, in order to ascertain the facts and views of both parties.
2. In order to protect the safety and welfare of both parties, it may be necessary to implement restrictions and/or behavioral expectations on individuals during the investigative and hearing process. Restrictions will be outlined to each party immediately following the initial consultations.
3. When a formal complaint is received, the Vice President for Student Life will convene the Sexual Misconduct/Assault Panel—a five person panel composed of two (2) students and three (3) members of the faculty and/or administrative staff. All members of the Conduct Panel have received formal adjudicatory training as well as training relative to the issues of sexual harassment, misconduct and assault.
4. Within fourteen (14) working days from the filing of the complaint the investigative officer will conduct an inquiry and prepare a report summarizing the relevant evidence. Note: hearsay evidence related by a witness that is not based on first-hand information will be identified as such.
5. The report of the investigative officer will be sent to the complainant and to the accused by the Vice President for Student Life. Within five (5) working days thereafter, the complainant and the respondent may each submit a final statement to the Vice President for Student Life concerning the report.
6. The Vice President for Student Life, in consultation with the Conduct Panel, may at any point dismiss a complaint if it is found to be clearly without merit. The complainant may appeal this determination to the Academic Vice President (AVP).
7. Within five (5) working days after the submission of any final statements from the complainant and the accused, the conduct panel will decide whether a violation of this policy has occurred, and if so, what the consequences shall be. These may range from reprimand, suspension or probation, to a recommendation of termination or expulsion.

**g. Conduct Panel Hearing Procedure**
1. The Vice President for Student Life will convene the Conduct Panel for a preliminary hearing and will present members with the investigative officer’s report, final statements, witness statements, physical evidence and relevant reports.
2. Panel members will review all materials in the preliminary hearing. Based on their review the panel may elect to interview witnesses (including the investigative officer), request additional information and/or interview the complainant and the accused (note: if the Panel elects to interview either party, both the complainant and accused must be provided an opportunity to appear).
3. A formal hearing will be scheduled at the Panel member’s earliest possible convenience. During the formal hearing, Panelists will consider the evidence, conduct interviews if applicable and debate the merits of the complaint.
4. In accordance with Federal Law, the Sexual Misconduct/Assault Conduct Panel will use the “preponderance of the evidence” standard to adjudicate complaints.
5. The Panel will make a final determination in the case and will draft a formal letter of notification. Upon approval of the letter, by the Panelists, both parties will be notified of the decision within two (2) business days.

**h. Sanctions**
Sanctions for sexual misconduct or sexual assault will be appropriate to the nature and severity of the offense and will be consistent with relevant College policy guidelines. Sanctions may include, but are not limited to, an oral reprimand, a written reprimand, a warning added to the accused person's file or the probation, suspension or expulsion of a student.

**i. Protection of Rights**
Both parties will be informed of the facts developed in the course of the investigation and will be promptly informed about the final outcome of the proceedings. To the extent reasonably possible, all proceedings will be conducted in a way calculated to protect the confidentiality interests of both parties. Moreover, all reasonable action will be taken to ensure that the complainant and those testifying on behalf of either party will suffer no retaliation as a result of their actions. In the event that the allegations are not substantiated, all reasonable steps will be taken to restore the accused if he or she may have been damaged by the proceedings. If a complainant is found to have been intentionally dishonest in making the allegations or to have made allegations maliciously, the complainant is subject to institutional discipline.

**j. Appeals Related to Sexual Misconduct and Assault**
If the accused is found guilty of misconduct or assault, s/he may appeal the Panel’s decision by submitting a statement to the AVP within ten (10) working days stating, with specificity, the reasons for his or her dissatisfaction and the grounds for thinking the case deserves further hearing. **Please note, appeals may be considered for a variety of reasons (new evidence, procedural error, sanction not in accord with the offense, etc...); however, the appellant’s disagreement with the Panels finding does not**
constitute grounds for an appeal. The AVP, within 30 days of submission of such a request, shall either affirm or overturn the decision. Appeals will be based upon the record made before the AVP and will not constitute a rehearing of the evidence. The person accused will be given the opportunity to present oral argument on such review provided, however, that nothing in the foregoing will be construed to prevent the reviewing committee in its discretion from hearing newly discovered evidence. The written response of the AVP will constitute the final determination of the complaint.