

**Rio Hondo
College District
Sexual Conduct
Policies**

Title IX

Violence Against Women Act



Table of Contents

INTRODUCTION	3
SCOPE OF THE POLICY AND PROCEDURES.....	3
District-Student Correspondence	3
Jurisdiction.....	3
SEXUAL MISCONDUCT POLICY (FOR STUDENTS).....	4
Other Misconduct Offenses	4
RESOURCES FOR STUDENTS	4
Student Health Center Counseling and Health Services (Confidential Reporting)	4
Title IX Coordinator (Non-Confidential Reporting)	5
Campus Security (Non-Confidential Reporting)	5
Rio Hondo College District Faculty and Staff (Non-Confidential Reporting).....	5
REPORTING SEXUAL MISCONDUCT	5
Time of Reporting a Complaint.....	5
Requesting Confidentiality in Connection with a Report to the College	5
Confidentiality	5
Interim Accommodations	5
Related Alcohol and Drug Violations.....	6
Unknown/Non-College Offenders	6
Campus Awareness Events and Programs.....	6
Anti-Retaliation/Anti-Intimidation Policy	6
PROCEDURES FOR RESPONDING TO STUDENT SEXUAL MISCONDUCT.....	6
Rights of the Complainant and Respondent	6
Special Requests/Accommodations	7
Student Right to Review Records	7
Advisors	7
Presence of Legal Counsel (Not an Advisor).....	7
Declining to Participate.....	8
Reluctant to Make a Formal Complaint.....	8
Written Submissions	8
Impact Statements	8
Time Frames	8
Notice.....	9
Investigation.....	9
Informal Resolution Options.....	9
Informal Resolution.....	9
Mediation	9
Administrative Resolution	9
Proceeding.....	10
Construct of the Hearing Panel	10
Selection of the Hearing Panel.....	10
Members of the Panel and a Conflict of Interest.....	10
Parallel Student Conduct Proceedings	10
Hearing Procedures	10
Additional hearing rules include:.....	11
Panel Determination/Standard of Proof.....	11

Sanctions.....	12
How Sanctions are Determined	12
Non-Appealable Sanctions	12
Appealable Sanctions	13
Ongoing Accommodations for Complainant	13
Additional Responses	13
Appeals	14
Specific Grounds for Appeal:	14
Definitions	14
Investigation Flow Chart (Appendix 1):.....	19
Incident and Complaint Form (Appendix 2):.....	20

INTRODUCTION

The Rio Hondo College District is dedicated to fostering a campus learning environment that is free from any forms of sexual misconduct and gender-based discrimination. Students, who are victims of sexual misconduct including; sexual harassment, sexual assault, stalking, domestic violence, dating violence, or other gender-based harassment or discrimination are encouraged to report these actions to the appropriate administrator.

Sexual harassment, sexual violence and other gender-based harassment occurring in the college setting implicates a federal law called Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of gender in education programs or activities. Reports of any allegations of this nature trigger certain responsibilities on the part of the district.

This policy and its accompanying procedures are intended to ensure safe non-discriminatory campus environments among the District locations where academic success is paramount. Furthermore, it is the unwavering goal of the Rio Hondo College District to deter gender-based misconduct through:

1. Education and preventative programs;
2. Accessible services for victims and others affected by sexual or gender-based misconduct;
3. Fundamentally fair methods of investigation and resolution on any report of misconduct; and
4. Safeguards to ensure that recurrence is prevented and the acts of misconduct do not persist.

REFERENCES

Education Code § 66281.5, 67382 and 67385;
California Penal Code § 242, 243, 245, and 261 et seq.;
California SB 967;
20 U.S. Code § 1092(f);
34 Code of Federal Regulations § 668.46(b)(11);
Government Code § 12950.1;
Title 5 § 59320, 59324, 59326, 59328, and 59300 et seq.;
34 Code of Federal Regulations § 106.8(b)
U.S. Department of Education, "Dear Colleague Letter:"
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>

SCOPE OF THE POLICY AND PROCEDURES

District-Student Correspondence

Rio Hondo College District institution's primary correspondence and notification mechanism with students shall be through the student's District assigned email account. At the District's discretion, students may be notified via U.S. certified mail, delivery in person, or by an alternate email on record from the student.

Jurisdiction

Pursuant to Board Policy 5500, the District's jurisdiction concerning alleged Student Code of Conduct violations extends to District or any of its colleges activities occurring on District property. This jurisdiction includes, but is not limited to, it's main and satellite campuses, and to any non-District-to property used by the District. This jurisdiction may also apply to student-to-student or student-to-employee off-campus conduct and/or actions, including electronic activity (such as e-mail, texting,

telephone contact, social media), when the College administrator, or designee, determines that the off-campus conduct affects, disrupts, or interferes with the educational mission of the campus.

SEXUAL MISCONDUCT POLICY (FOR STUDENTS)

Sexual and Other Sexual Assaults on Campus, Board Policy 3540

- I. Any sexual assault or physical abuse, including, but not limited to rape as defined by California law, whether committed by an employee, student or member of the public, that occurs on district property, is a violation of district policies and procedures, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. Students, faculty, and staff who may be victims of sexual and other assaults shall be treated with dignity and provided comprehensive assistance. The President / Superintendent shall establish administrative procedures that ensure that students, faculty, and staff who are victims of sexual and other assaults receive appropriate information and treatment, and that educational information about preventing sexual violence is provided and publicized as required by law.
- II. See Administrative Procedures 3540
- III. Reference: Education Code Section 67382, 67385; 20 U.S.C. § 1092(f); 34 C.F.R. § 668.46(b)(11) (CCLC)

Other Misconduct Offenses (Will Fall under Title IX When Sex or Gender-Based)

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the college community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
5. Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1st Amendment).
6. Violence between those in an intimate relationship to each other; and
7. Stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family of members of the community.

RESOURCES FOR STUDENTS

Rio Hondo District is committed to maintaining a positive learning, working and living environment. The College will not tolerate acts of sexual harassment or sexual violence or related retaliation against or by any employee or student. When sexual harassment or sexual violence has occurred and is brought to the attention of a responsible administrator, steps will be taken to end the harassment or violence, prevent its reoccurrence, and address its effects. The following resources list the confidentiality obligations of Rio Hondo College District personnel at Rio Hondo College with respect to reports of sexual misconduct:

Student Health Center Counseling and Health Services (Confidential Reporting)

The Student Health Center at Rio Hondo College has available confidential counseling and health services on campus for all registered students attending these institutions. Whether you are seeking support after a sexual assault or another form of sexual misconduct, there are several services and referral options available to you. For confidential/private assistance, contact the Student Health

Title IX Coordinator (Non-Confidential Reporting)

The Title IX Coordinator, Dean of Student Affairs ([562] 908-3498), is responsible for promoting an institutional environment that is free of gender bias, sexual harassment, and other forms of sexual misconduct. In addition, the Title IX Coordinator's role is to monitor and evaluate the institution's Title IX compliance efforts and make recommendations for any appropriate changes and improvements. The Title IX Coordinator oversees the administration of this policy and procedures in a neutral and equitable manner.

Campus Security (Non-Confidential Reporting)

Students may report sexual misconduct to Campus Security or the local law enforcement agency where the misconduct occurred. After a report has been taken and the necessary responses are taken, a campus security officer will report the incident to the Title IX Coordinator. To submit a campus security report involving sexual misconduct, contact Campus Security at (562) 908-3498.

Rio Hondo College District Faculty and Staff (Non-Confidential Reporting)

Students who report sexual misconduct behaviors to faculty and staff should not expect confidentiality. As mandated reporters, faculty and staff are obligated to report all statements of sexual misconduct to the Title IX Coordinator.

REPORTING SEXUAL MISCONDUCT

Time of Reporting a Complaint

The Rio Hondo College District does not limit the time for filing a complaint of sexual misconduct. Due to the passage of time, the College's ability to investigate and respond effectively may be reduced substantially; however, this will not hinder offering remedies and on-campus/off-campus services to the complainant.

Requesting Confidentiality in Connection with a Report to the College

When the College becomes aware of sexual violence, the College may have an obligation to proceed with an investigation, regardless of a complainant's wishes, in order to ensure campus safety. You are not required to participate if you choose not to; however, this may limit the College's ability to respond to the incident. If you request that your name or other identifying information not be used in an investigation, the College will consider your request in light of the context of its responsibility to provide a safe and nondiscriminatory environment. In most cases, information including your name may be shared with the respondent, witnesses and with college officials who have a legitimate need to know. Beyond that, the College will take steps to protect your identity and the identity of all individuals involved.

Confidentiality

Any Information provided to District employees may be shared with other District employees, law enforcement, and other parties consistent with law, and only on a "need to know" basis. District employees shall endeavor to honor any complainant's or victim's request for confidentiality; however, confidentiality cannot always be assured. The District may weigh requests for confidentiality against its duty to provide a safe and nondiscriminatory environment for all members of the campus community.

Interim Accommodations

The Title IX Coordinator, or designee, will work with the students affected by the sexual misconduct

report to ensure safety and promote their well-being. Sometimes this assistance will take the form of immediate interim actions or accommodations to support and protect the involved students in the immediate aftermath of an incident and while an investigation or disciplinary action is pending.

The Title IX Coordinator, or designee, may assign a victim's advisor to the person who reported the complaint or the complainant may choose his/her own. Likewise, the Title IX Coordinator may determine other remedies, such as, but not limited to, accommodations relating to changing academic schedules, Campus Security escort services, restrictions on the alleged perpetrator pending investigation, and other remedies to promote the well-being, safety, and restoration of alleged victim.

Related Alcohol and Drug Violations

The institution understands that students are reluctant to file complaints of sexual misconduct when alcohol and/or drugs were illegally used. The severity of the infraction will determine the nature of the college's response, but whenever possible the college will respond educationally rather than punitively to the illegal use of drugs and/or alcohol associated with a report of sexual misconduct.

Unknown/Non-College Offenders

Rio Hondo College District will investigate reports of incidences affecting college students that are committed by individuals who are not members of the college community or whose identity is not known to the extent it is able, and take appropriate actions designed to protect affected students and others in the college. The College will offer appropriate remedies and on-campus/off-campus services to the complainant.

Campus Awareness Events and Programs

As a committed entity on educating our campus community of the impact that sexual misconduct has on an individual and the campus community, Rio Hondo College supports public awareness events and programs surrounding these issues. The disclosure of incidents of sexual misconduct at such events is not considered a report to the campus for purposes of triggering an investigation of a particular incident.

Anti-Retaliation/Anti-Intimidation Policy

Any form of retaliation or intimidation against anyone who has complained of or formally reported discrimination, harassment, or sexual misconduct, or has participated in an investigation of such a complaint, regardless of whether the complaint relates to the complaining person or someone else, will not be tolerated, and violates both this policy and applicable law.

PROCEDURES FOR RESPONDING TO STUDENT SEXUAL MISCONDUCT

Rights of the Complainant and Respondent

The Rio Hondo College District does not discriminate based upon age, race, ethnicity, sexual orientation, gender, national origin, veteran's status, gender identification, or genetic information in administering District educational policies and procedures. The District complies with the American with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973.

Students are entitled to a fundamentally fair process, including reasonable notice of allegations of violations of sexual misconduct, the opportunity for the student to be heard and to afford the student the opportunity to present evidence prior to the administrative determination of the alleged violations, except when immediate interim suspensions or restrictions are deemed necessary pending an investigation and determination of the matter. Any Sanctions imposed under this policy shall be

appropriate to the nature of the violations, as determined by the College Disciplinary Officer or designee or panel.

Throughout this process, both the complainant and respondent have the following rights:

- To be treated with respect by District officials
- To take advantage of campus support resources, such as mental health services, special services, health services, etc. to help remedy and restore
- To experience a safe living, education, and work environment
- To have an advisor during an adjudication process
- To refuse to have an allegation resolved through conflict resolution procedures
- To be free of retaliation
- To have complaints heard in substantial accordance with procedures
- To fully participate in any process whether the injured party is serving as the complainant or the institution is serving as complainant
- To be informed in writing of the outcome/resolution of the complaint, any sanctions imposed, and the rationale for the outcome, when permissible.

Special Requests/Accommodations

The Student may have an interpreter attend the investigation meeting and the proceeding before the College Disciplinary Officer or Panel. An interpreter accompanying a Student to the proceeding before the investigator, College Disciplinary Officer, or Panel must provide evidence of his/her certification as a certified interpreter to the investigator and/or College Disciplinary Officer at least five days prior to the commencement of the proceeding. The interpreter may only interpret for the student, and shall not expand or enhance the student's testimony. Likewise, the use of assistive technology must be reviewed and approved vetted by the investigator and/or College Disciplinary Officer at least five days prior to the commencement of the proceeding.

Student Right to Review Records

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

Parents or eligible students have the right to inspect and review the student's education records maintained by the college. Colleges are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.

Advisors

Student conduct proceedings are not formal court hearings, but instead are administrative actions imposed by the District. Although District-related sanctions may be imposed, the process is intended to provide an opportunity of learning. Both the complainant and the respondent (student charged) may elect to be accompanied by an advisor (e.g. victim's advocate, friend, family member, etc.) to any meeting(s) or interview(s). The advisor's role is limited to observing and consulting with and providing support to the complainant or respondent. An advisor may not participate (speak) in the investigation and hearing processes on the student's/complainant's behalf. The advisor should also maintain confidentiality.

Presence of Legal Counsel (Not an Advisor)

An attorney duly licensed to practice in the State of California may accompany the student to any proceeding. The attorney shall not make any statements or presentations to the judicial panel, examine

or cross-examine any witnesses, or present evidence or any written material to the panel. An attorney may not in any way disrupt or interfere with the panel's process. Any violation of this section shall result in the immediate removal of the attorney. An attorney shall provide the College Disciplinary Officer with a retention letter confirming that he/she has been retained by the student at least five (5) days before the proceeding so that the necessary arrangements can be made for an attorney for the District to be present at the proceeding. The attorney's retention letter shall include the attorney's State Bar number and telephone number.

Declining to Participate

A complainant and/or respondent may decline to participate in the investigation and proceeding. In these cases, the investigation and adjudication process will continue and a determination of "responsible" or "not responsible" will be made without the benefit of the complainant's and/or respondent's input.

Reluctant to Make a Formal Complaint

As a complainant/victim of an incident of sexual misconduct, you may want to inform the college of the alleged violation and unwilling to participate further in any investigation and/or disciplinary action against the student(s) who has been accused. The District has an obligation to investigate to the extent of the information that is available and known. If during the investigation the investigator finds corroborating information, it may be determined that is necessary to move forward with the student conduct process without the involvement to the complainant or to implement other appropriate remedies. If a complainant does not wish to participate in the student conduct process, there is an obligation to document the incident. When a report is being documented, there will be no personally identifying information about the complainant. The complainant will be notified of any actions by the District, coupled with a letter stating the choice to participate in the investigation and/or student conduct process.

Written Submissions

Impact Statements

The purpose of impact statements is to allow the complainant and respondent, during the sanctioning process, to describe to the panel how this violation has had an impact on them. The panel only may use information from these statements to help determine an appropriate sanction(s).

Impact statements may provide information about damage to complainant/respondent that would otherwise have been unavailable to the panel. A complainant is not required to appear before a panel, but is empowered by the panel to convey their experience(s) in the case in written form.

Time Frames

The Title IX Officer, or designee, shall use best efforts to seek and resolve sexual misconduct reports within 60 calendar days of an initial report, not including appeals. The general timeline is as follows:

- Review and investigation process begins within 7 calendar days after the date of the initial report.
- Investigation is completed within 25 calendar days after the investigation begins.
- Hearing (if any) is held within 20 calendar days after the conclusion of the investigation.
- Determination of the hearing is issued within 7 calendar days after the completion of the hearing.
- Notice of Sanction(s) issued within 7 calendar days after the completion of the hearing.
- Notice of appeals filed by either or both complainant and respondent to the College Disciplinary Officer within 7 calendar days after the notice of determination and sanction(s).
- Appeal hearing is held within 20 calendar days after complainant and/or respondent's notice of appeal was received.

- Determination of appeal hearing by the President, or designee, is issued within 7 days after the completion of the appeal hearing.

Notice

The Title IX Officer, or designee, will provide electronic mail notice to the involved parties with the following information:

- A description of the alleged violation(s);
- A description of the applicable policies;
- A statement of the potential sanctions/responsive actions that could result; and
- A required date, time, and location of the hearing, superseding all other campus and work activities.

If any party does not appear at the scheduled review, investigation, or proceeding, the meeting will be held in his/her absence. For compelling reasons, the Title IX Officer, or designee, may reschedule the meeting.

Time frames for reviews, investigations, and hearings may vary depending on the details of a case and at certain times of the academic year for possible violations that occur near, during, or after District holidays, breaks, or the end of an academic term, in which meetings will be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by this policy and procedures.

Investigation

Rio Hondo College District, through a trained Title IX Team, will investigate any and all reports of alleged violations of sexual misconduct. Anyone who believes the Student Code of Conduct on sexual misconduct has been violated should contact a mandated reporter at each District campus. The investigators will interview the complainant, respondent, and any witnesses (if appropriate). The investigator will also gather information, documents, and materials (if any) that is relevant to the case.

The College Disciplinary Officer makes a determination based on the investigation's evidence. After the investigation, the investigator refers the findings of the case to the College Disciplinary Officer, or designee, and may recommend or impose a "responsible" or "not responsible" determination. The investigator may also recommend appropriate sanctions.

Informal Resolution Options

If appropriate, Rio Hondo College District's Title IX Office may seek to resolve certain sexual misconduct cases through an informal process involving both the complainant and respondent:

Informal Resolution

The Respondent accepts the findings of the investigation and, if appropriate, sanctions by the Title IX Officer or designee.

Mediation

As mutually agreed upon by the Title IX Officer, complainant, and respondent, a participatory mediation between all parties involved may occur to resolve the alleged violation. Sanctions may be determined in mediation, as outlined in the U.S. Department of Education's "Dear Colleague Letter" (2011): <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>

Administrative Resolution

The Title IX Officer, the respondent, and/or when appropriate, the complainant, may request an administrative hearing through a single College designated administrator, typically a Title IX Officer or designee.

Proceedings

If an informal resolution process is not available, the District will convene a trained formal judicial panel to conduct and to make a determination of the alleged violation and to impose possible sanctions. The District shall make reasonable efforts to give the student(s) an opportunity to refute the accusation or otherwise provide relevant information to the panel regarding the incident(s) which led to the belief by the investigator, or designee, that the student(s) violated the Student Code of Conduct in a proceeding format.

Construct of the Judicial Panel

The proceeding is closed to all persons except the: 1) College Disciplinary Officer; 2) student charged; 3) advisor; An attorney or other professional, expert, or consultant retained by the District; 4) witness(es) (while testifying); 5) a court-certified interpreter at the student's own expense; 6) selected members of the panel; and 7) any person to assist the hearing officer. In some cases, a Campus Security Officer may be present to ensure safety and security during the hearing. Likewise, the Title IX Coordinator, or designee, may be present to ensure a fundamentally fair process and compliance. Panel members for an appeal hearing will consist of Rio Hondo College District employees only. No students will be asked to serve on a hearing panel due to the sensitive nature of the subject matter.

If the student is a minor, the student's parent or legal guardian must be present during the hearing.

Selection of the Judicial Panel

The following process determines possible members of a judicial panel. Members come from the Rio Hondo College District. All members participating on a judicial panel are oriented and trained to adjudicate a sexual misconduct case. The College Disciplinary Officer, in consultation with the Title IX Coordinator, or designee, will devise the panel. The panel will consist of 3 or 5 members.

- a. Within thirty days of the beginning of the fall Semester, the Academic Senate of the College shall send a list of at least six faculty members who will be eligible to serve on a hearing panel to the College Disciplinary Officer. The list shall remain on file and in effect until a new list is provided.
- b. Managers and Classified personnel members of the panel will be chosen upon interest and availability.

Members of the Panel and a Conflict of Interest

The panel shall be chosen by the College Disciplinary Officer except that the panel shall not include any person who was a participant in the event, out of which the disciplinary action arose, nor shall it include any person who has had a past association with the student or any other party to the hearing which could impede the individual's ability to act in a fair and impartial manner. A panel member who is chosen must disclose any potential or actual conflict of interest.

Parallel Student Conduct Proceedings

Student Conduct Code proceedings are independent from court or other administrative proceedings. Discipline may be instituted against a student also charged in civil or criminal courts based on the same facts that constitutes the alleged violation of the Student Code of Conduct. The District may proceed before, concurrently with, or after any judicial or other administrative proceedings, except in cases involving sexual misconduct. In sexual misconduct cases, the District shall proceed without undue delay in accordance with federal and state law requirements, and District policies and procedures.

Proceeding Procedures

1. The chair will call the proceeding to order, explain the procedures of the proceeding, and have all parties introduce themselves.
2. The chair will present the guiding principles/norms of behavior in the proceeding to guarantee control of the proceeding, make certain that all parties respect the right of others to make statements, and to ensure confidentiality.
3. The College Disciplinary Officer, and if applicable her/his witness(es), shall have up to forty-five (45) minutes to present relevant evidence conducted by the investigator and witnesses (if

applicable) to support the determination by the College Disciplinary Officer of the investigation that a violation of the Student Code of Conduct has occurred.

4. The respondent may question any witnesses presented by the College Disciplinary Officer. Members of the panel may also question any witness(es) presented by the College Disciplinary Officer. Questioning by the student or the committee shall not be considered part of the time allotted for presentation of the College Disciplinary Officer's evidence. It is the discretion of the chair to impose a timeline on questioning.
5. The student charged, and if applicable her/his witness(es), shall have up to forty-five (45) minutes, if necessary, to present relevant evidence bearing on the accusation. The College Disciplinary Officer may question any witnesses represented by the student. Members of the panel may also question witnesses. Questioning by the panel shall not be considered part of the time allotted for presentation of the student's evidence. It is the discretion of the chair to impose a timeline on questioning.
6. The College Disciplinary Officer, and then the student charged may make a closing statement to the panel. These closing statements shall be limited to a maximum of ten minutes each. The chair shall have the authority to extend the time limits, but must ensure equal time.

Once all information has been collected, the chair, or designee, will:

7. Reiterate the alleged policy violation(s);
8. Remind all parties involved of the Standard of Proof (Preponderance of Evidence);
9. Remind all parties of confidentiality and of all imposed interim sanctions that are active and must be adhered to;
10. Remind all parties to review Rio Hondo College District's Student Code of Conduct (Board Policy 3540), Administrative Procedures (3540), and to understand their student rights and responsibilities;
11. Inform all parties of the deliberation process and the projected timeline for notification; and
12. Remind the respondent and the complainant, if applicable, that notification and all communication are via District email accounts.

Additional proceeding rules include:

- **Information Regarding Romantic or Sexual History.** The panel will not consider the romantic or sexual history of either the complainant or the respondent in cases involving allegations of sexual misconduct, except for testimony offered by one or the other about the complainant's and respondent's shared sexual history that the panel deems relevant. The existence of a sexual relationship between the complainant and respondent does not support the inference of consent to alleged sexual misconduct.
- **Prior Conduct Violation.** The hearing panel will not consider the respondent's prior conduct violations, unless:
 1. The respondent was previously found to be responsible, and
 2. The previous incident was substantially similar to the present allegation(s) and/or the information indicates a pattern of behavior by the respondent.
- **Use of Cell Phones and Recording Devices.** Cell phones and recording devices may not be used in the investigation meetings and hearings.

Panel Determination/Standard of Proof

The panel will find a student either "responsible" or "not responsible" based on a majority vote. If a panel determines a student is "responsible" for violating the Student Code of Conduct, the matter will advance to the sanctioning stage.

In all cases involving alleged violations of the Student Code of Conduct, the standard of proof is the "preponderance of the evidence" standard as set forth in the definitions herein (e.g., more likely than not). This standard is also employed when making determinations regarding interim restrictions/actions.

Sanctions

How Sanctions are Determined

It is the commitment from the District that respondents found “responsible” for violating sexual misconduct policies are imposed of sanctions that are:

- Fair and appropriate given the facts of the particular case;
- Consistent with the College’s handling of similar cases;
- Adequate to protect the safety of the campus community; and
- Reflective of the seriousness of the sexual misconduct.

The relevant factors that are considered when imposing sanctions are:

1. The specific sexual misconduct at issue (such as penetration, touching, unauthorized recording, etc.);
2. The circumstances accompanying the lack of consent (such as force, threat, coercion, incapacitation, etc.);
3. The respondent’s state of mind (intentional, knowing, bias-motivated, reckless, etc.);
4. The impact of the offense on the complainant;
5. The respondent’s disciplinary history;
6. The safety of the campus community; and
7. The conduct respondent’s conduct during the disciplinary process.

Non-Appealable Sanctions

The following sanctions may be imposed for violation of this Student Code of Conduct. These sanctions are not exclusive and may not be appealed:

- Disciplinary Probation consists of written notice to the student by the College Disciplinary Officer that the student has violated this Student Code of Conduct (including a specified period of time) with conditions as imposed by the College Disciplinary Officer. Any subsequent violations of this policy by the student during the term of the probation or the student's failure to comply with any condition of probation imposed by the College Disciplinary Officer will result in additional sanctions under this policy.
- District Restriction. The College Disciplinary Officer may for a specified period of time restrict the student's access to parts or areas of the District and/or District property.
- Exclusion From District Activities prohibits the student from participating in any District co-curricular and/or extra-curricular activity(ies) for a period to be determined by the College Disciplinary Officer.
- Mental Health Clearance. Mental Health Clearance may be required before a student is readmitted to a particular class or allowed to come onto District property. The College Disciplinary Officer must receive a letter from a licensed mental health professional stating that in his/her professional judgment the student will no longer continue the behavior which gave rise to the College Disciplinary Officer taking disciplinary action against him/her or that the student's continued presence on campus is not a threat to himself/herself or others. The mental health professional must be licensed by the State of California and the College District Administrator must verify that the mental health professional is credentialed to render a professional opinion. The student shall bear the cost and expense of obtaining mental health clearance.
- Restitution requires the student to repay the District or any person for the cost of replacing or repairing any property taken, destroyed or damaged by the student. This student may also be charged a service charge and/or collection fee under the College policy regarding service charges and collection fees.
- Restriction from Attendance at District Events. The College Disciplinary Officer may restrict the student from attending some or all District events for a specified period of time.
- Short Term Removal From Class for a period not to exceed four class meetings, may be imposed by any instructor on a student who is disrupting the class or otherwise interfering with the ability of other students in the class to learn. Before removing a student from class, an

instructor shall first give or make reasonable efforts to give the student notice of his/her intent to remove the student and a reasonable opportunity for the student to modify his/her behavior. The instructor or program supervisor shall notify the College Disciplinary Officer, in writing, immediately following his/her removal of a student under this section, with a copy to the Dean of the academic division. The student may not return to the class until the student has met with the College Disciplinary Officer. The College Disciplinary Officer shall contact the student to arrange such a meeting.

- Short Term Suspension prohibits the student from attending classes or entering onto any District Property for a period of one (1) to ten (10) days as determined by the College Disciplinary Officer.
- Hold on Records which consists of the withholding of transcripts and/or other student records. This is imposed when a student fails to repay debts to the District, return District equipment or make restitution to the District. A hold on records may also be asserted if a student does not comply with requests such as, but not limited to, required meeting or appointments.
- Administrative Withdrawal from Class prohibits a student's continued presence in the class if his/her behavior is disruptive of the class and interferes with the ability of other students in the class to learn or in any way endangers himself/herself or others. When this sanction is applied the student will be administratively withdrawn by College Disciplinary Officer.
- Grade Change from a "Withdraw" to a letter grade may be imposed where the College Disciplinary Officer, together with the instructor, determine this is an appropriate sanction.
- Written Warning is a written reprimand and warning to the student by the College Disciplinary Officer that he/she has determined that the student has violated this Student Code of Conduct and is on notice.

Appealable Sanctions

The following sanctions imposed by the College Disciplinary Officer or panel may be appealed:

- Expulsion prohibits the student from attending any classes or registering as a student in the District for an indefinite period of time but not less than ten (10) years. Expulsion prohibits the student from entering onto any District property without written permission of the District. Expulsion will be imposed immediately upon Board action. When expulsion has been recommended, the student shall be immediately suspended pending Board action.
- Long Term Suspension prohibits the student from attending classes, registering as a student or entering onto any District property without written permission of the College Disciplinary Officer for a period from eleven (11) days to three (3) years as determined by the College Disciplinary Officer and/or the College President. Long term suspension may be imposed immediately or at the end of the current term at the discretion of the College Disciplinary Officer.

Ongoing Accommodations for Complainant

Whatever the outcome of the informal resolution or hearing process, a complainant may request ongoing or additional accommodations. In consultation with other campus entities, a determination will be made on whether such measures are appropriate. Potential ongoing accommodations include:

- Providing an escort by Campus Security.
- Changing the complainant's academic schedule.
- Adjusting the complainant's on campus job 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.

Additional Responses

The District institutions may also determine that additional measures are appropriate to respond to the effects of the incident. Additional responses for the benefit of the College community may include:

- Revision of the District's policies and procedures regarding sexual misconduct.
- Additional training and education materials for students, faculty, and staff.

- Increased monitoring, supervision, or security at locations or events where the sexual misconduct occurred.
- Ensuring relevant climate surveys that focus on safety, security, inclusion are gathered to improve on developing a culture that is intolerant of sexual misconduct.

Appeals

Either the complainant or the respondent or both may appeal the determination of the judicial panel and/or sanctions. Disagreeing with the finding of the sanction is not, by itself, grounds for appeals.

Students are allowed one appeal. The decision of the appeal panel is final.

Specific Grounds for Appeal:

1. A procedural error or omission occurred that significantly impacted the outcome of the hearing (i.e., substantiated bias, material deviation from established procedures, etc.).
2. The sanction is excessive, insufficient, or significantly disproportionate to the violation.

DEFINITIONS

Sexual Misconduct

- An umbrella term for offenses that are sexual or gender-based, which include, but are not limited:
- Sexual Harassment
- Non-Consensual Sexual Contact (or attempts to commit same)
- Non-Consensual Sexual Intercourse (or attempts to commit same)
- Sexual Exploitation

Non-Consensual Sexual Contact

Non-consensual sexual contact is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman that is without consent and/or by force. The determination of whether an environment is “hostile” must be based on all of the circumstances. These circumstances could include:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- Whether the conduct was humiliating;
- The effect of the conduct on the alleged victim’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 unreasonably interfered with the alleged victim’s educational or work performance;
- Whether the statement is a mere utterance of an epithet which engenders offense in an employee or student, or offends by mere discourtesy or rudeness
- Whether the speech or conduct deserves the protections of academic freedom or the 1st Amendment.

Sexual Contact Includes

Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

Non-Consensual Sexual Intercourse

Non-Consensual Sexual Intercourse is any sexual intercourse however slight, with any object, by a man or woman upon a man or a woman that is without consent and/or by force. Intercourse includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Sexual Harassment

Sexual Harassment is unwelcome, gender-based verbal or physical conduct that is, sufficiently severe, persistent or pervasive that it, unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the college's educational program and/or activities, and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

Sexual Exploitation

Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another student;
- Non-consensual video or audio-taping of sexual activity;
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Knowingly transmitting an STI or HIV to another student;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

Force

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Elements of force also includes physical force, threats, intimidation (implied threats) and coercion that overcome resistance or produce consent ("Have sex with me or I'll hit you. Okay, don't hit me. I'll do what you want.").

Physical Force (violence, abuse, compulsion) – Physical force is the classic construct, equated with violence or the use of a weapon. No matter how slight, any intentional physical impact upon another, use of physical restraint or the presence of a weapon constitutes the use of force.

Threats (harassment) – Any threat that causes someone to do something they would not have done absent the threat is enough to prove forcible compulsion. For example, if I threaten you with a negative consequence and that threat causes you to acquiesce in sexual activity, forcible compulsion is present, and sexual misconduct has occurred.

- If you don't have sex with me, I will harm someone close to you
- If you don't have sex with me, I will tell people you raped me

- If you do not have sex with me, I will spread a rumor you are gay
- If you don't sleep with me, I will fail you

Intimidation (implied threats, abuse) – Intimidation is defined as an implied threat, whereas threats are clear and overt. It is a situation where someone uses their power or authority to influence someone else.

Coercion (pressure, duress, cajoling, compulsion, abuse) – Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

- Cases will be investigated regardless of whether the accuser resisted the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
- In order to give effective consent, one must be of legal age (18 years or older).
- Sexual activity with someone who one should know to be—or based on the circumstances should reasonably have known to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation.

Stalking

A course of conduct directed at a specific person that would cause a reasonable person to feel fear or suffer substantial emotional distress. Stalking involves repeated and continued harassment against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear or apprehension. Stalking behaviors may include: pursuing or following; unwanted communication or contact—including face-to-face, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.; trespassing; and surveillance or other types of observation.

Domestic Violence

The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards (a) a current or former spouse or intimate partner; (b) a person with whom one shares a child; or (c) anyone who is protected from the respondent's acts under the domestic or family violence laws of California. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Domestic violence can be a single act or a pattern of behavior in relationships.

Dating Violence

The use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards a person who is or has been in a social relationship of a romantic or sexually intimate nature with the victim. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Dating violence can be a single act or a pattern of behavior in relationships.

Consent

Consent is **informed**. Consent is an affirmative, unambiguous, and conscious decision by each

participant to engage in mutually agreed-upon sexual activity.

- Consent is **voluntary**. It must be given without coercion, force, threats, or intimidation. Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.
- Consent is **revocable**. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of the relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.
- Consent cannot be given when a person is incapacitated. A person cannot consent if she/he is unconscious or coming in and out of consciousness. A person cannot consent if she/he is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if her/his understanding of the act is affected by a physical or mental impairment.

Retaliation

Any act of reprisal is a violation of policy. Examples of actions that might be retaliation against a complainant, witness, or other participant in the complaint process include:

- Singling the person out for harsher treatment;
- Lowering a grade or evaluation;
- Failing to hire, failing to promote, withholding pay increase, demotion, or discharge;
- Providing negative information about the person in order to interfere with his or her prospects for employment, admission, or academic program.

Hostile Environment

A hostile environment may arise when unwelcome conduct of a sexual or gender-based nature affects a student's ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational and/or living environment. A single, isolated incident of sexual or gender-based harassment may, based on the facts and circumstances, create a hostile environment.

Incapacitation

Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction).

District policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including but not limited to Rohypnol, Ketamine, GHB, Burundanga, etc., is prohibited, and administering one of these drugs to another student is a violation. More information on these drugs can be found at 911 Rape Information.

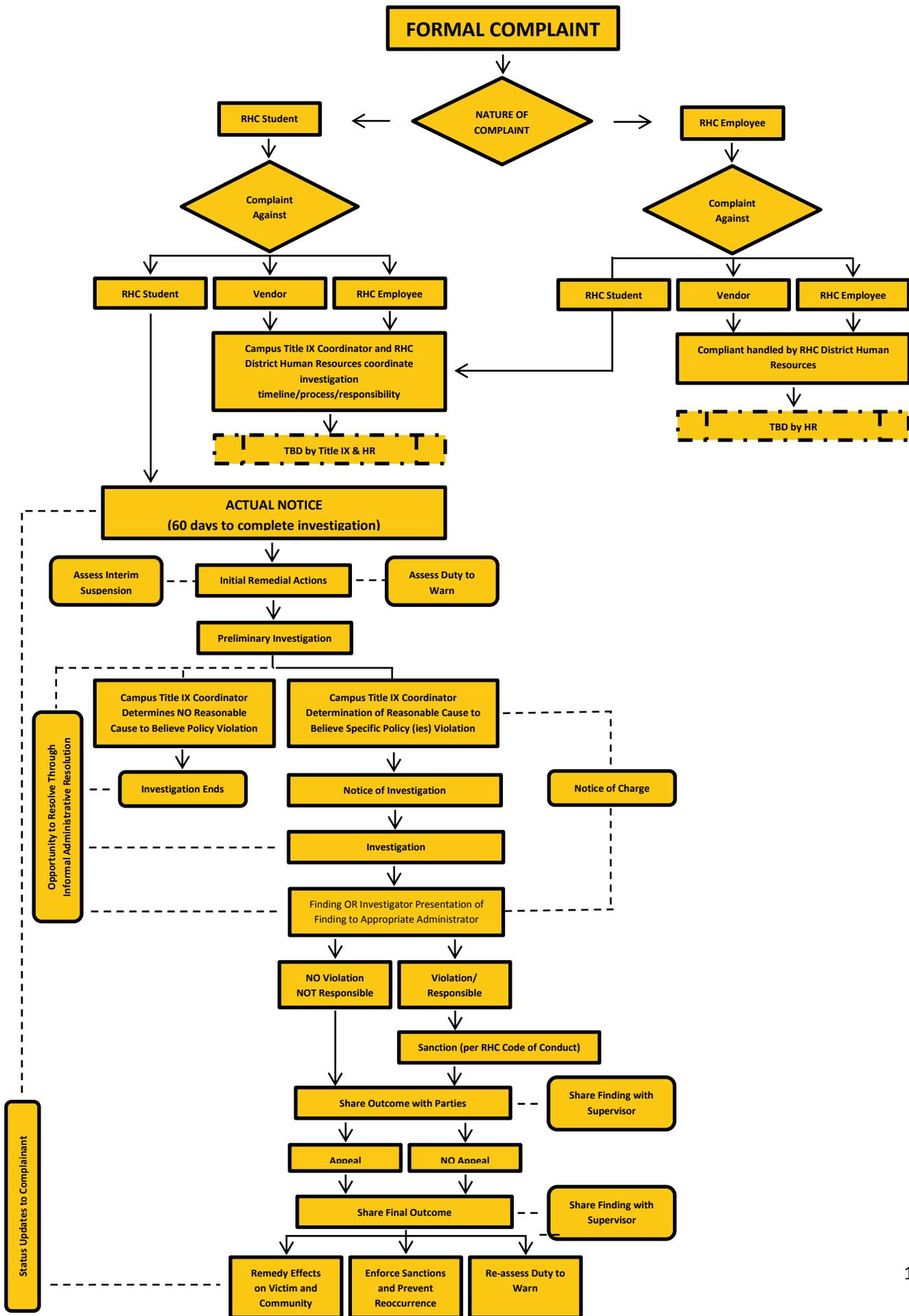
Complainant

"Complainant" means the person(s) reporting alleged violations of this Student Code of Conduct.

Respondent

"Respondent" means the person(s) who are alleged to have violated the Student Code of Conduct.

Title IX Investigation Flow Chart





Sexual Misconduct

Incident and Complaint Report Form

Complainant General Information

Faculty Staff Student I.D. #: _____ Date of Birth: ____ / ____ / ____

1 Complainant's Name: _____

2 Address: _____

3 Phone: () _____

4 Email: _____

Alleged Offender's General Information (if known)

Faculty Staff Student I.D. #: _____ Date of Birth: ____ / ____ / ____

1 Alleged Offender is: Unknown Affiliated with Rio Hondo College

2 Offender's Name: _____

3 Address: _____

4 Phone: _____

5 Email: _____

Witness(es) General Information (if any)

Witness 1

Faculty Staff Student I.D. #: _____

1 Name: _____

2 Phone: () _____

3 Email: _____

Witness 2

Faculty Staff Student I.D. #: _____

1 Name: _____

2 Phone: () _____

3 Email: _____

Incident Information (you may attach additional sheets of paper if needed).

Please describe (in detail) the incident(s) that occurred. Include a full description of the event(s), verbal statements, location of the incident(s) and the physical contact that was involved.

