

**NONDISCRIMINATION ON THE  
BASIS OF SEX IN ITS EDUCATION PROGRAMS OR ACTIVITIES**

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**Roseman University Title IX Policy Content Sections**

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## **I. Introduction**

Roseman University of Health Sciences does not discriminate on the basis of sex in the educational programs or activities it operates and the university is required by Title IX not to

## II. Definitions

### *Actual knowledge*

Means notice of sexual harassment or allegations of sexual harassment to Roseman Wpłxgtukŷ ō Title IX Coordinator and/or any employee who Roseman University designates as an individual with the authority to institute corrective measures on behalf of the university.

### *Advisor*

É Means an individual selected by a respondent, complainant, Title IX Coordinator or Title IX Decision-maker to advise and assist a respondent or complainant throughout the Wpłxgtukŷ ō "Vkrŷ"KZ "process.

É Cp"cf xkuqt"o c{ "dg"cp"cwqtpg{ 0"

É Vj g"Wpłxgtukŷ "f qgu"pqvtgs wkt g"cp"cf xkuqt"q"ucvuh{ "cp{ "o kpklo wo "tgs wktgo gpw, complete any training, demonstrate competence in Title IX policies and procedures, and/or to be free of conflicts of interest.

### *Appeal*

The University is required to offer both parties an appeal from a determination regarding responsibility, and from a University dismissal of a formal complaint or any allegations therein, on the following bases:

- 1) Procedural irregularity that affected the outcome of the matter;
- 2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- 3) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

### *Bias*

É Vj g" F gr ctvo gpv"qf Education does not define this term in the final regulations.

É Vj g"Wpłxgtukŷ "cf qr w"vj g"hqmqy kpi "f ghpkkkp"qh'dkcu'lt qo "vj ku'rkpm'vq"vj g"P cvkqpcn' Institutes of Health: <https://diversity.nih.gov/sociocultural-factors/implicit-bias#:~:text=Bias%20consists%20of%20attitudes%2C%20behaviors,or%20group%20compared%20to%20another.>

Bias consists of attitudes, behaviors and actions that are prejudiced in favor of or against one person or group compared to another. *Implicit bias* is a form of bias that occurs automatically and unintentionally that nevertheless affects judgments, decisions, and behaviors.

*Business Day*

For the purpose of this policy, an individual has the right to a complete business day, i.e., a day that starts at 8:00 am and ends at 5:00 pm Monday through Friday.

For example, communication between 5:01 pm Friday and 7:59 am Monday will be designated as occurring on Friday (the previous business day) and the first business day that would be counted towards meeting a deadline would be Monday; communication initiated after 8:00 am on Monday but before 7:59 am on Tuesday, will be designated as occurring on Monday (the current business day) and the first business day that will be counted towards a meeting a deadline would be Tuesday.

*Complainant*

Means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a complainant.

*Conflict of Interest*

The Department of Education notes in the discussion of the final regulations that the Clery Act regulations do not further elaborate on what may constitute a conflict of interest or bias and further declines to do so in its final Title IX regulations. The University defines conflict of interest as any situation that could cause a reasonable person to question the impartiality or objectivity of University Title IX personnel.

*Consent*

Roseman University will consider the following issues to determine if a complainant gave consent:

Consent to sexual activity.

Voluntary affirmative verbal response is a way to ensure that an individual has given consent to sexual activity. An individual does not have to physically resist for an activity to be considered sexual assault. Any sign of resistance eliminates consent.

Silence is not accepted as a means to establish consent to any kind of sexual activity.

ÉAn individual who is incapacitated is unable to consent to sexual activity. Roseman University will assess the following as indicators of being incapacitated:

- Preceding and/or during the sexual activity, did the complainant know the name of the respondent?
- Did the complainant know if more than one person was engaging the complainant in sexual activity?
- Preceding and/or during the sexual activity, did the complainant know the date and time?
- Preceding and/or during the sexual activity, did the complainant know where the respondent was engaging the complainant in sexual activity?
- Was the complainant aware of how the respondent was engaging the complainant in sexual activity?
- Did the complainant show any signs of slurred speech, an inability to stand or walk without assistance, vomiting, and/or being in and out of consciousness preceding and/or during the sexual activity with the respondent?
- Was there any other indicator that a reasonable person would conclude was a sign that the complainant was incapacitated?

ÉPrior sexual contact does not mean consent, even when individuals have been in a relationship. An individual who initially consents to sexual conduct has the right to withdraw this consent during the course of sexual activity.

ÉThe University will apply the conditions defining consent consistently, including as between men and women and as between the complainant and respondent, in the University's Title IX grievance process.

ÉThe burden of proof and the burden of collecting evidence sufficient to reach determination regarding consent, is the responsibility of the University. The University's final regulations do not require a respondent to prove consent and do not require a complainant to prove the absence of consent.

#### *Education Program or Activity*

...y, this includes locations, events, or circumstances over which the university exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the university.

The Department of Education noted in the discussion of the final regulations that the Department of Education's Title IX protects students in connection with all of the academic, educational, extra-curricular, athletic, and other programs of the school, whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school.

The Department

*Formal Complaint*

ÉO gcpu"cf qewo gpvhgf "d{ "c"eqo r m kpcpvqt "uki pgf "d{ "vj g"Vkrng "KZ "Eqqtfl kpcvqt "cmgi kpi " sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment. A formal complaint is not required to provide a detailed statement of facts.

ÉC vj g"vto g"qh'kpi "c"formal complaint a complainant must be participating in or attempting to participate in the education program or activity of Roseman University when the formal complaint is filed. The Department of Education in the discussion of the final regulations provides

*Investigative Report*

ÉO gcpu"j g'hto cñkpxguki cvkg'tgr qtvt that fairly summarizes relevant evidence that is completed by the



*Official with Authority to Implement Corrective Measures*

Roseman University defines this term to only designate the Title IX Coordinator and administrators with the formal title of a Title IX Coordinator or Dean

equally, the value of the evidence is outweighed by harm or prejudice.

¶ In the discussion of the final regulation that where a respondent might wish to prove the complainant had a motive to fabricate or conceal a sexual interaction, the University is not required to allow for admission or consideration of the evidence of a romantic relationship with a person other than the respondent, without delving into a respondent's circumstances.

¶ In the discussion of the final regulations that questions and evidence about a respondent's sexual predisposition or prior sexual behavior are not subject to any special consideration but rather must be judged like any other question or evidence as relevant or irrelevant to the allegations at issue.

#### Relevance

The Department of Education did not define this term in the final regulations and stated in the discussion of the final regulations that the ordinary meaning of the word should be understood and applied.

#### Remedy

¶ May include a supportive measure(s) as defined by University Title IX policy; however, a remedy or activity.

¶ Can only be imposed on a respondent when the respondent, after the grievance process that complies with Title IX, has resulted in the respondent being found responsible for engaging in sexual harassment. Similarly, Roseman University will provide a remedy/remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent as a result of a grievance process that complies with Title IX.

¶ May include a supportive measure(s) as defined by University Title IX policy; however, a remedy

and this published range is purely for purposes of notice as to the possibility of a range of remedies and does not reflect the probability that any particular outcome will occur.

*Respondent*

Means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

*Retaliation*

ÉKpko kf cvkqp. "vj tgcw. "eqgtekqp. "qt "fuetko kpcvqp. "kpenf kpi "ej cti gu'ci ckpu'cp' kpf kxf wcn' for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation.

ÉVj g"gzgtekug"qh'tki j w'r tqvevgf "wvf gt "vj g'Hktuv'Co gpf o gpv'f qgu'pqv'eqpukwwg'tgcrkcvkqp" wvf gt "Tqugo cpau'Vkrqg"KZ' r qre { 0

ÉEj cti kpi "cp'kpf kxf wcn'y kj "c"eqf g"qh'eqpf wev'violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not eqpukwwg'tgcrkcvkqp"r tqj kdkgf "wvf gt "Tqugo cpau'Vkrqg"KZ' r qre { . "r tqxkf gf . "j qy gxgt. "vj cv" a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

*Sanction*

ÉEcp'qpn' "dg'ko r qugf "qp" c'tgur qpf gpv'y j gp'vj g'tgur qpf gpv. "chvgt "vj g'i tkxcpvg'r tqegu'vj cv" complies with Title IX, has resulted in the respondent being found responsible for engaging in sexual harassment.

ÉC' r qukdng'tcpi g'qh'ucpevkpu"for a respondent includes kuw'kpi "hqtu cn'y tkwgp"-Y ctpkpi ø'vq" the respondent (a statement that clearly indicates the particular aspects of the behavior at issue and expectations for future behavior) to University expulsion (permanent severance of the student from the University with no opportunity to reapply for admission) for student-respondents to permanent termination of employment for employee-respondents. This described range is required by Federal law under Title IX and this published range is purely for purposes of notice as to the possibility of a range of disciplinary sanctions and does not reflect the probability that any particular outcome will occur.

*Sexual harassment*

this term means conduct on the basis of sex that satisfies one or more of the conditions defined below that occurs in a Roseman University educational program or activity against a person in the United States:

- (1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on the person's participation in or completion of such conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University;
- (3) Dating violence as defined in 34 U.S.C. 12291(a)(8), or Domestic Violence as defined in 34 U.S.C. 12291(a)(8), or Sexual Assault as defined in 34 U.S.C. 12291(a)(8).

Dating violence

Means violence committed by a person

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (i) The length of the relationship.
  - (ii) The type of relationship.
  - (iii) The frequency of interaction between the persons involved in the relationship.

Domestic violence

Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim



conduct of a sexual nature, their actions would not be sexual harassment covered by Title IX.

The Department of Education in the discussion of the final regulations noted that unwelcome conduct that harms and humiliates a person on the basis of sex may meet the elements of the Davis [a US Supreme Court Case] standard including pervasiveness, particularly where the unwelcome sex-based conduct involves widespread dissemination of offensive material or multiple people agreeing to potentially victimize others and taking steps in furtherance of the agreement.

The Department of Education noted in the discussion of the

eqo r rckpcpv'cpf 't gur qpf gpv'ctg'pqv'övgco gf 'wr ö.'that they are not assigned to sit near each other, or that they are not cuuki pgf 'vq'dg'ör ctvpgtuö"qt'vgco 'o go dgtu."adjusting an academic transcript and other similar measures, supervision of the respondent, informing t gur qpf gpv'qh'vj g'Wpkxgtukv{ ø'r qnd { "ci ckpuv'ugzvcn'j ctcuuo gpv0

ÉThe Department of Education noted in the discussion of the final regulations that changing a class schedule y qwf 'pqv'pgeguuctkq' "eqpuvkwg"cp'öwptgcuqpcdrö"dwtf gp"qp"c" respondent. The Department of Education explained in the discussion of the final regulations that educational conversations or changing student seating or class assignments do not inherently constitute punitive or disciplinary actions and the final regulations therefore do not preclude school officials from taking such actions to maintain order, protect student safety, and counsel students about inappropriate behavior.

*Title IX Investigator*

An individual designated by the University to investigate allegation(s) of sexual harassment. The Title IX Investigator can also be the Title IX Coordinator. The Title IX Investigator is not required to be a university employee.

*Written Determination of Responsibility*

The Title IX Decision-maker must provide a written determination of responsibility after the conclusion of a Title IX Hearing. This written determination will include:

- É Identification of the allegations potentially constituting sexual harassment as defined by the Wplxgtukv{ au'Vkrq'KZ'r qrlk { =
- É A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- É Findings of fact supporting the determination;
- É Eqpenukqpu'tgi ctf kpi 'vj g'cr r rlecvkqp"qh'vj g'Wplxgtukv{ au'eqf g'qh'eqpf wev'vq'vj g'hcew=
- É A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and y j gyj gt'vj g'tgo gf kgu'f guki pgf "vq'tguvqtg'qt'r tguqtxg'ceegu'vq'vj g'Wplxgtukv{ au'gf wecvkqp" program or activity will be provided by the University to the complainant; and
- É Vj g'Wplxgtukv{ au'r tqegf wgu'cpf'r gto kuku'g'dcugu'hqt'vj g'eqo r rckpcpv'cpf'tgur qpf gpv'vq" appeal



### **III. How to Report Sex Discrimination, How to Report Sexual Harassment, and How Roseman University Title IX Personnel Will Respond**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that the person may choose. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

The University's Title IX policy may apply to reports and formal complaints by employees against students and other employees, and also may apply to third-party complaints against students.

When the Title IX Coordinator receives a report of sexual discrimination, the Title IX Coordinator must promptly contact (within at least three (3) business days) the complainant to:

- Discuss the availability of supportive measures as defined by Title IX policy,

- Provide information about supportive measures,

The University must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of Roseman University to provide the supportive measures.

Roseman University must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

#### **IV. How to File a Formal Complaint of Sexual Harassment and How Roseman University Title IX Personnel Will Respond**

##### Introduction

A *formal complaint* is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator. A formal complaint is a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that includes a statement of the complainant, a digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a Roseman University education program or activity.

The final regulations do not mandate circumstances where a Title IX Coordinator is required to sign a formal complaint; rather, the final regulations leave a Title IX Coordinator with discretion to sign a formal complaint. If the Title IX Coordinator signs a formal complaint against the wishes of the complainant, the Title IX Coordinator does so with the acknowledgement that it is likely it will be difficult to

assisting the complainant

Éa complainant notifies the Title IX Coordinator in writing that the complainant would

## V. Roseman University Grievance Procedures and Process

### Introduction

The purpose of the Roseman University Title IX Policy is to provide a fair and equitable process for resolving complaints of sexual harassment and sexual assault. The policy is designed to protect the rights of complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with this Title IX policy before the university imposes any disciplinary sanctions or actions that are not supportive measures against a respondent. The

University Title IX personnel, a complainant and a respondent do not have the right to force parties or witnesses to appear at hearings, which are common features of procedural rules governing litigation and criminal proceedings.

The University has the right to control what Title IX Advisors are allowed to do during the interview initiated by a complainant or respondent (but not a Title IX interview initiated by a Title IX Investigator or Title IX Decision-maker). The University also prohibits a Roseman independently conducting Title IX interviews with any party or witness, including contacting a party or witness to obtain information related to a Title IX case.

The University prohibits parties from photographing sensitive material such as photographs with nudity or disseminating such evidence to the public.

The Department of Education noted in the discussion of the final regulations that if there is a direct conflict between requirements of FERPA and requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions.

The Department of Education noted in the discussion of the final regulations regarding Title VII that:

• Title VII imposes different obligations with respect to sexual harassment, including a different definition, and employers that are subject to both Title VII and Title IX will need to comply with both sets of obligations,

• Nothing in these final regulations prevents an employer from complying with Title VII, and that employers must fulfill both their obligations under Title VII and Title IX,

and

• There is no inherent conflict between Title VII and Title IX.

### Notice of Allegations and Initial Interview

The written notice of allegations identifying the parties to a sexual harassment incident is required only after a formal complaint has been filed by a complainant or signed by a Title IX Coordinator.

The Title IX Coordinator will provide the written notice of allegations to the parties who are known within five (5) business days of the filing of a formal complaint. The Coordinator will also provide the written notice of allegations to the parties who are not known within five (5) business days of the filing of a formal complaint for the information that will be provided to each party.

The Title IX Investigator or Title IX Coordinator will provide written notice to a complainant, respondent and witness that they have at least three (3) business days to prepare a response before the initial interview with the Title IX Investigator.

A complainant and respondent have the right to have an advisor of their choice attend Title IX interviews. However, an individual designated as having the status of "advisor" for the purpose of a specific Title IX Investigation, does not have the right to an advisor. An advisor is not allowed to make oral statements, ask questions, or raise objections during a Title IX interview. However, an advisor may request that the Title IX Investigator grant a reasonably brief break to provide advice to their advisee.

If, in the course of an investigation, a Title IX Investigator decides to investigate allegations about the complainant or respondent that are not included in the Title IX Notice of Allegations, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

Investigation of a Formal Complaint

Regulations do not require a university to obtain evidence within a specific time frame.

When investigating a formal complaint and throughout the grievance process, the university

- 1) Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a finding on the parties provided that the university cannot access, consider, disclose, or otherwise use the services of a psychologist, or other recognized professional or paraprofessional



may participate in the proceedings, as long as the restrictions apply equally to both parties;

- 5) Provide, to a complainant, respondent, advisor and/or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

ÉThe Title IX Coordinator or Title IX Investigator will provide a party with at least three (3) business days written notice of Title IX meetings and Title IX investigative interviews so the party has time to prepare;

ÉThe Title IX Coordinator or Title IX Investigator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The parties will have the opportunity to argue that evidence directly related to the allegations is in fact relevant.

Roseman University holds that providing the parties this equal opportunity for review and inspection at least five (5) business days prior to a good faith estimate of the date of the conclusion of the investigation is a reasonable timeframe to allow each party to meaningfully respond to the evidence.

ÉCv"hgcu'hxg"\*7+'dwlpguu"fc{ u'r tlqt "vq" a good faith estimate of the date of the completion of the investigative report, the Title IX Coordinator or Title IX Investigator will provide a party with at least three (3) business days written notice of Title IX meetings and Title IX investigative interviews so the party has time to prepare; subject to inspection and review in an electronic format or hard copy, and the parties will have at least ten (10) business days to submit a written response,



## Hearing

### Introduction

Vj g'F gr ctvo gpv'qh'Gf wecvkpa'hpcn'tgi wrcvqpu require that the Wpkxgtuk\ø'i tlexcpeg" process provides for a live hearing. Title IX hearings may be conducted with all parties r j {ulecm\ 'r tgugpv'k"vj g"uco g'i gqi tcr j k"necvqp"qt."cv'vj g"Vkwg"KZ "Eqqtflpcvqtø" discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Title IX hearings are not open to the public. Only individuals determined by the Title IX Coordinator as being necessary to conduct the hearing will be granted access. A person assisting a party with a disability, or a language interpreter, may accompany a party to the j gctkpi . "k"cf f kkp"q"vj g'r ctv\ø'cf xkqt."dgecvug"vj g'r tgugpeg"qh'c'r gtuqp"cuukvpi "c'r ctv\ " with a disability at the hearing is required by law and/or necessary to conduct the hearing.

At the request of either party, the Title IX Coordinator must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Title IX decision-maker and parties to simultaneously see and hear the party or the witness answering questions.

The Title IX Decision-maker presides over this hearing and has the right to impose reasonable rules of conduct and decorum on all parties participating in the hearing, including reasonable time limits. The Title IX Decision-maker shall not allow the complainant, the respondent, and witnesses to be subjected to insulting treatment, including inappropriate comments,

C'r ctv{ "ecppqv"ökhgö"cp"cuuki pgf "cf xkuqt "f wtkpi "vj g"j gctkpi . "dw'kh'vj g'r ctv{ "eqttgew{ "cuugtwa" vj cv'vj g"cuuki pgf "cf xkuqt "ku't ghwukpi "vq"öeqpf wev'etquu-gzco kpcvkpp"qp"vj g'r ctv{ au'dgj crhö then the Title IX Coordinator or Title IX Decision-maker is obligated to provide the party an advisor to perform that function, whether that means counseling the assigned advisor to perform that role, or stopping the hearing to assign a different advisor.

Title IX requires the University to create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. However, the F gr ctvo gpv'qh"Gf wecvkppa'final regulations do not obligate the University to send the parties a copy of the recording or transcript.

Cross Examination

ÉCross-examination at the live hearing must be conducted directly, orally, and in real time by cp"cf xkuqt"cevkpi "qp"vj g"eqo r nekpcpvau"cpf "c"t gur qpf gpvau behalf and never by a complainant or respondent personally, notwithstanding the right of the Title IX Decision-maker to use discretion to otherwise restrict the extent to which advisors may participate in the proceedings. The requirement hqt"c'r ctv{ au"cf xkuqt"vq"eqpf wev'etquu-examination



questions but video evidence exists showing the underlying incident, the Title IX Decision-maker may still consider the available evidence and make a determination. ~~If a party or witness makes a statement in the video, then the Title IX Decision-maker may not rely on the statement of that party or witness in reaching a determination regarding responsibility.~~ The Title IX Decision-maker may consider video evidence that does not constitute statements or to the extent that the video contains non-statement evidence.

*Per an email from the U.S. Department of Education <ed.gov@public.govdelivery.com>  
Sent: Tuesday, August 24, 2021 1:44 PM  
Subject: Update on*

The Department of Education noted that on July 28, 2021 a federal district court in Massachusetts issued a decision in *Victim Rights Law Center et al. v. Cardona*, No. 1:20-cv-11104, 2021 WL 3185743 (D. Mass. July 28, 2021). The email explained that:

"The court explained that the Title IX Decision-maker may consider video evidence that does not constitute statements or to the extent that the video contains non-statement evidence."



ÉThe Title IX Coordinator is responsible for the effective implementation of any remedies.

ÉThe Title IX Coordinator has the right to keep supportive measures in place even after a determination that a respondent is not responsible, so complainants do not necessarily need to be left in constant contact with the respondent, regardless of the result of the ~~Wp&gtuk\ø~~grievance process.

ÉThe Department of Education noted in the discussion of the final regulations that it dec-4-BDfBT/oe/ nkeep



Unless a deadline extension has been approved in writing by the Title IX Coordinator (or designee), a complainant, respondent or anyone acting on their behalf, is not allowed to submit information received after the deadline to the Title IX Investigator and/or Title IX Decision-maker. The Title IX Decision-maker will disregard evidence that was submitted after an approved deadline.

### Appeals Process

The Complainant and Respondent have a right to submit a written appeal of the Title IX determination of responsibility to the Title IX Appeals Decision-maker. The complainant and/or respondent must submit a written appeal to the Title IX Appeals Decision-maker within five (5) business days after the Title IX Coordinator provided the parties with written notification to dismiss the formal complaint or the Title IX Decision-maker provided each party with the Written Determination. The Title IX Appeals Decision-maker will consider a temporary delay or limited extension of time frames in the appeals process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

The Title IX Appeals Decision-maker will only consider appeals for any of the following bases:

## **VI. Emergency Removal**

A respondent, including an employee-respondent, may be removed from the University's education program or activity on an emergency basis for reasons related to a Title IX issue(s). Respondents who are employees receive the same due process protections with respect to emergency removals (i.e., post-removal notice and opportunity to challenge the removal) as student-respondents.

An emergency removal of a respondent for the purposes of a Roseman University Title IX-related reason(s) requires the University to undertake an individualized safety and risk analysis, determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and to provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

## **II. Recordkeeping**

The Title IX Coordinator must maintain for a period of seven years records of:

Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required by Title IX regulations, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the University's education program or activity;

Any appeal and the result therefrom;

All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Roseman University must make these training materials publicly available on its website.

For each response required by Title IX policy, the University must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the Title IX Coordinator must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the Title IX Coordinator did not provide a complainant with supportive measures, then the Title IX Coordinator must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the Title IX Coordinator in the future from providing additional explanations or detailing additional measures taken.