

RUSH UNIVERSITY SYSTEM for HEALTH

Rush's Policy Prohibiting Discrimination, Harassment, and Sexual Harassment

TABLE OF CONTENTS

- I. INTRODUCTION
- II. POLICY STATEMENT
- III. RESPONSE PROCEDURES
- IV. SCOPE OF POLICY
- V. CONDUCT OUTSIDE THE SCOPE OF THIS POLICY
- VI. NONDISCRIMINATION POLICY
- VII. PRIVACY AND CONFIDENTIALITY
- VIII. REPORTING OPTIONS
- IX. RESPONSIBILITIES OF THE RUSH COMMUNITY
- X. PROHIBITED CONDUCT
 - A. Discrimination
 - B. Harassment
 - C. Sex-Based Harassment
 - D. Specific Offenses of Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Violence on the Basis of Sex
 - E. Sexual Exploitation
 - F. Retaliation
- XI. OTHER CONDUCT OF CONCERN
- XII. CONSENT, COERCION, AND INCAPACITATION
- XIII. STANDARD OF EVIDENCE

I. INTRODUCTION

Rush¹ is committed to the principles of equal opportunity and promoting and maintaining an environment that emphasizes the dignity and worth of every member of its community. Rush strives to have an environment that is free from discrimination, harassment, sex-based harassment, sexual assault, domestic violence, dating violence, stalking, sexual exploitation, and related retaliation (collectively “Prohibited Conduct”). Rush has a legal duty to prevent and redress discrimination and harassment, as well as a moral and ethical duty to do so. Discrimination and harassment are contrary to Rush’s values, represent professionally and socially irresponsible behavior; and can damage the trust, influence and reputation of Rush as an academic medical center. Because Rush’s primary mission of furthering the public good through health care relies on maintaining public trust and confidence, it is essential that every member of the Rush community share in the responsibility for meeting our community’s conduct expectations. It is equally important that members of the Rush community appreciate the impact Prohibited Conduct can have on the academic medical center environment, and the need for serious consequences, such as termination of employment or expulsion from Rush, for substantiated violations of this Policy.

II. POLICY STATEMENT

Rush strictly prohibits all forms of discrimination and harassment based on a protected personal characteristic against any member of the Rush community, including but not limited to students, non-employed or private providers, members of the faculty, all employees, applicants for admission or employment, patients, volunteers, guests and vendors (collectively “the Rush Community”).

A *protected personal characteristic* includes an individual’s: race, sex, gender, color, religion, national origin (including shared ancestry and ethnic characteristics), language, age, ancestry, disability, marital or familial status, pregnancy, sexual orientation (including gender-related identity), military status, order of protection status, citizenship status, work authorization status, arrest or conviction record status, or any other categories protected by federal or state law, or local ordinance.

III. RESPONSE PROCEDURES

This policy is administered by the Office of Institutional Equity (“OIE”). OIE has exclusive jurisdiction to assess, inquire into, and investigate reported violations of this Policy. This Policy addresses Rush’s obligations under relevant provisions of federal and state law, and local ordinance. Rush values the prompt and equitable inquiry into reports of Prohibited Conduct. Rush will not hesitate to take swift and strong action when an investigation concludes, by a preponderance of the evidence, that this Policy was violated. Discrimination and harassment are not tolerated at Rush.

Every member of the Rush community is responsible for fostering an environment free from discrimination and harassment. All members of the Rush community are strongly encouraged to

¹ For purposes of this Policy, Rush University System for Health is comprised of Rush University Medical Center (RUMC), Rush University (RU), Rush University Medical Group (RUMG), Rush Oak Park Hospital (ROPH), Rush Copley Medical Center (RCMC), and any Rush-employed physician group and will be referred to collectively as “Rush” hereinafter.

take reasonable actions to prevent or stop acts of Prohibited Conduct when possible. This may include directly intervening when safe to do so, enlisting the assistance of others, contacting law enforcement, or seeking assistance from a person in authority. Rush community members who choose to exercise this positive responsibility will be supported by Rush and protected from retaliation.

IV. SCOPE OF POLICY

This Policy applies to all members of the Rush Community, including employees, non-employed or private providers, faculty, students, applicants for admission or employment, residents, graduate fellows, visiting students not enrolled at Rush University, patients, third parties with a contractual or business associate relationship or partnership with Rush, volunteers, patients, and guests.

This Policy applies to:

- Reports of discrimination, harassment, sex-based harassment, sexual assault, domestic violence, dating violence, stalking, sexual exploitation, and retaliation, as defined by this Policy, by any member of the Rush community, including students and employees.

The Policy applies to Prohibited Conduct that occurs within all of Rush's operations (referred to as its education programs or activities), as defined below. The Policy may also apply to instances in which the conduct occurred outside of Rush's operations, but where Rush otherwise regulates the conduct, the conduct has or could have a continuing impact on the terms and conditions of employment or within the education program or activity, the conduct could contribute to a hostile environment or otherwise interfere with a student's access to education or an employee's working environment, or the conduct may have the effect of posing a serious threat to the Rush community. This includes conduct that occurs off campus, outside of working hours, or on social media.

Education program or activity is a term of art that includes all of Rush's operations including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, dining, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by Rush. It also includes off-campus locations, events, or circumstances over which Rush exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs.

Sex-based harassment, as well as retaliation for reporting sex-based harassment, is illegal, pursuant to federal, state, and local law.²

Other Rush policies may be considered in investigating a reported violation of this Policy as deemed applicable and appropriate by OIE. Where conduct involves the potential violation of both this Policy and another Rush policy arising from the same or similar set of facts and circumstances,

² *Sexual Harassment* is defined by the City of Chicago as any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; (ii) requests for sexual favors or conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.

OIE has the discretion to investigate and resolve the conduct under this Policy, provided that doing so does not unduly delay a prompt and equitable resolution of the report and that the parties are provided timely notice of this decision. To ensure a thorough and timely response to conduct that implicates multiple policies, OIE may also investigate matters concurrently with other departments or refer matters to other departments to review for potential policy violations that fall outside of the scope of this Policy. Where the definitions conflict, the definitions in this Policy will control.

V. CONDUCT OUTSIDE THE SCOPE OF THIS POLICY

Conduct that does not fall under the purview of this Policy may still violate other Rush policies or otherwise be considered inappropriate for the academic medical center environment.

VI. NONDISCRIMINATION POLICY

Rush does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment. Inquiries about Title IX may be referred to Rush's Title IX Officer.

Rush's Title IX Officer

Nancee Hofheimer

Nancee_B_Hofheimer@rush.edu

(312) 942-2104

In addition, complaints about Rush's application of this Policy and compliance with certain federal civil rights laws may also be filed with the U.S. Department of Education, Office for Civil Rights, by visiting www2.ed.gov/about/offices/list/ocr/complaintintro.html or calling (800) 421-3481.

VII. PRIVACY AND CONFIDENTIALITY

Rush is committed to protecting the privacy of all individuals involved in the reporting, investigation, and resolution of reports of discrimination and harassment under this Policy. Privacy and confidentiality have distinct meanings under this Policy.

A. Privacy

Privacy refers to the discretion that will be exercised by OIE during any inquiry, investigation or sanctioning processes under this Policy or accompanying procedures. Information related to a report of prohibited conduct will be handled discreetly and shared with a limited group of Rush officials (including OIE) who need to know to assist in the assessment, investigation or resolution of the report and related issues. Considering the wishes of the reporting party, OIE will make reasonable efforts to address and/or investigate reports of Prohibited Conduct under this Policy. If the report proceeds to an investigation, information may be disclosed to the participants as necessary to facilitate the thoroughness and integrity of the investigation. In all such proceedings, Rush will maintain the privacy of the parties to the extent reasonably possible.

The privacy of student education records will be protected in accordance with the Rush's Policy on the Access to Student Records in accordance with the Family Educational Rights and Privacy Act (FERPA). Access to an employee's personnel records is also governed by Rush policy and by applicable local laws.

B. Confidentiality

Confidentiality refers to the level of protection that must be applied to statutory protections provided to individuals who disclose information in legally protected or privileged relationships and does not refer to the level of protection provided by OIE. Confidential protections apply to, for example, relationships with professional mental health counselors (including therapists and psychotherapists), sexual assault counselors, domestic violence counselors, medical professionals, attorneys, ordained clergy, and any individual acting in a professional capacity for which confidentiality is mandated by law (“Confidential Resources”). Individuals providing administrative assistance or support in the provision of direct services by Confidential Resources are also considered confidential under this Policy. These Confidential Resources must maintain the confidentiality of communications disclosed within the scope of their provision of professional services. Information shared by an individual with a Confidential Resource, on campus or in the community, intended as a confidential communication, cannot be revealed to any other individual without the express permission of the individual seeking the services, unless there is an imminent threat of harm to self or others, the conduct involves suspected abuse of a minor, or disclosure is otherwise required by law or a court order.

Similarly, medical and counseling records cannot be released without the individual’s written permission or unless permitted or required consistent with ethical or legal obligations. Individuals who wish to seek confidential assistance may do so by speaking with a Confidential Resource.

Rush has also designated a limited number of employees as partially confidential resources. Partially confidential resources are required to report to OIE that an incident has occurred, and they must provide general details about the incident, but they are not required to disclose any personally identifiable information about the Complainant and/or reporting party.

VIII. REPORTING OPTIONS

Any member of the Rush community who believes they may have witnessed or been the target of Prohibited Conduct is encouraged to report their concerns, without fear of retaliation or retribution. As detailed in Section VII. Responsibilities, Rush employees have a duty to report alleged violations of this Policy to OIE when they receive a report of Prohibited conduct, witness Prohibited Conduct, or otherwise obtain information about Prohibited Conduct.

A. Reporting to OIE

Reports and concerns about conduct that may violate this Policy can be made to a Rush manager, or reported directly to OIE by contacting:

Rush’s Title IX Officer

Nancee Hofheimer

Nancee_B_Hofheimer@rush.edu

(312) 942-2104

Rush’s Deputy Title IX Officer

Catherine Howlett

Catherine_C_Howlett@rush.edu

(312) 563-1489

OIE Administrative Coordinator

Kim Luong

Ngan_K_Luong@rush.edu

(312) 563-4699

As noted above, Rush managers are required to share reports with OIE.

B. Anonymous Reports

Anonymous reports can be made through The Rush Hotline (877) 787-4009 or via Rush's web reporting tool at www.rush.ethicspoint.com. Anonymous reporters do not need to identify themselves but are asked to provide enough information to enable an assessment or investigation into the concern. Upon receipt of an anonymous report, OIE will evaluate the information received and determine what actions should be taken based on the information provided. Depending on the amount of information available about the reported concern and/or the individuals involved, OIE's ability to respond to an anonymous report may be limited.

C. Rights and Options

Upon receiving a report of an incident of sexual assault, domestic violence, dating violence, or stalking, Rush will provide the Complainant with a written document (separate from this Policy) listing, in plain, concise language, the Complainant's available rights, options and resources, as well as a description of Rush's procedures for investigating and resolving the report.

D. Rush Security Reports and Reports to Local Law Enforcement

Some reports made under this Policy may be criminal in nature and may, therefore, be reported to the applicable Rush Security Department or local law enforcement. A Complainant has the right to report, or to decline to report, potential criminal conduct to law enforcement. Upon request, Rush will assist a Complainant in contacting law enforcement at any time. Under limited circumstances where there is a threat to the health or safety of any Rush community member, Rush may independently notify law enforcement. An individual may make a report to OIE, to law enforcement, to both, or to neither. Rush's resolution process and law enforcement investigations may be pursued simultaneously but will operate independently of one another. Rush will, when appropriate, coordinate information with law enforcement if law enforcement is notified. Rush, upon request, may also temporarily pause its investigation to allow preliminary fact-gathering by law enforcement.

Rush security officers also have reporting responsibilities under the Clery Act and are considered Campus Security Authorities (CSAs). CSAs have a duty to report sexual assault, dating violence, domestic violence, stalking, and other Clery Act-defined crimes, and non-personally identifiable information from CSA reports will be used to disclose statistics about Clery Act crimes in the daily crime log, Annual Security Report and to the U.S. Department of Education. If a report of sexual assault, dating violence, domestic violence or stalking discloses a serious or continuing threat to

the campus community, Rush will issue a timely notification to the community to protect the health and safety of the community as required by the Clery Act. This reporting helps provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety and enable Rush community members to make important decisions about their own safety.

Rush University Medical Center Security Department

(312) 942-5678

From Campus Phone: 2-5678

Chicago Police Department: Dial 911

Rush Oak Park Hospital Security Department

(708) 660-2211

From Campus Phone: 6-2211

Oak Park Police Department: Dial 911

Rush Copley Medical Center Security Department

(630) 499-4717

From Campus Phone: 4717

Aurora Police Department: Dial 911

E. Timeframe for Reporting

A report may be made at any time, regardless of the length of time between the alleged conduct and the decision to report the conduct. However, Rush encourages individuals to submit reports promptly to preserve evidence for any potential internal or external investigation or accompanying proceedings. Delays in filing reports may affect OIE's ability to assess, inquire into, or investigate a report, which may affect the outcome of the investigation.

F. Obligation to Make Reports in Good Faith and Provide Truthful Information

Rush expects that all reports made pursuant to this Policy will be brought in good faith.

All Rush community members are expected to provide truthful information in any report made under this Policy. Submitting or providing deliberately false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary action up to and including termination or expulsion. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are erroneous or are not later substantiated.

G. Partially Confidential Resources

Rush has identified the following resources who can keep reports partially confidential if a reporting party wishes. Partially confidential resources are required to report to OIE that an incident has occurred, and they must provide general details about the incident, but they are not required to disclose any personally identifiable information about the victim and/or reporting party.

In addition, partially confidential resources who receive a disclosure of Prohibited Conduct are required to provide the disclosing individual with the contact information of OIE and inform the individual that OIE may offer support and services.

Rush University Medical Center Chaplaincy Services

511A Kidston House
1653 W. Congress Parkway
Chicago, IL 60612
(312) 942-5826

Rush Oak Park Hospital Chaplaincy Services

Spiritual Care
520 S Maple
Oak Park, IL 60403
(708) 660-5658

Rush Copley Medical Center Chaplaincy Services

Spiritual Care
2000 Ogden Avenue
Aurora, IL 60504
(630) 978-4827

The Rush Employee/Student Assistance Program

(Powered by Com/Psych)
(877) 465-1324
<https://insiderush.rush.edu/wellness>

H. Confidential Resources

Rush employees who serve as Confidential Resources are prohibited from sharing information unless required or permitted to do so by law or ethical obligations. Information shared with Confidential Resources when they are acting in the scope of their profession, will not be disclosed to OIE or any other Rush official, without the express written permission of the individual seeking services or as otherwise provided by law. Confidential Resources include but are not limited to professional mental health counselors (including therapists, psychotherapists), sexual assault counselors, domestic violence counselors, medical professionals, ordained clergy, and any individual acting in a professional capacity for which confidentiality is mandated by law. In addition, Confidential Resources who receive a disclosure of Prohibited Conduct are required to provide the disclosing individual with the contact information of OIE and inform the individual that OIE may offer support and services.

Rush Wellness Center for Clinical Wellness

24/7 Pager: (312) 942-6000, ext. 2323
RushWellness@rush.edu

Chicago Rape Crisis Hotline
1 N. LaSalle Street #1150, Chicago, IL
(888) 293-2080 (24 hours)

Resilience
180 N Michigan Ave #600, Chicago, IL 60601
(312) 443-9603

Mutual Ground
418 Oak Ave
Aurora, IL 60506
Sexual Assault Hotline (24/7): (630) 897-8383
General phone number: (630) 897-0080

I. Other Reporting Options

Any Illinois employee who feels they have been subjected to discrimination may also file a charge of discrimination in writing with the Illinois Department of Human Rights within 180 days of the harassment. That charge will be investigated and, if there is substantial evidence that discrimination occurred, a complaint will be issued with the Illinois Human Rights Commission. Employees may also file a charge with the Equal Employment Opportunity Commission (EEOC) and have 300 days to do so. Contact information for each of these agencies is listed below.

The Department of Human Rights
State of Illinois
Department of Human Rights State of Illinois Center
100 West Randolph, Suite 10-100
Chicago, Illinois 60601
(312) 814-6200
(800) 662-3942
(866) 740-3953 (TTY)

The Human Rights Commission
State of Illinois
Human Rights Commission State of Illinois Center
100 West Randolph, Suite 5-100
Chicago, Illinois 60601
(312) 814-6269

The U.S. Equal Employment Opportunity Commission
Chicago: (800) 669-4000
Chicago TTY: (800) 869-8001
<https://www.eeoc.gov/employees/howtofile.cfm>

The Cook County Commission on Human Rights

69 W. Washington Street, Suite 1130
Chicago, IL 60602
(312) 603-1100

J. Amnesty

Rush recognizes that students who have consumed alcohol when they are not twenty-one (21) years of age or who have been using illegal drugs may be hesitant to report Prohibited Conduct perpetrated against them or others. Therefore, Rush will not take disciplinary action under its alcohol or drug policies against a student who discloses illegal alcohol or illegal drug use in the context of reporting Prohibited Conduct directed against them or another person unless the violation was egregious or placed the health or safety of any person(s) at risk. However, Rush may require counseling, education, or other preventative measures to help prevent alcohol or drug violations in the future.

Rush's commitment to amnesty in these situations does not prevent action by police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

IX. RESPONSIBILITIES OF THE RUSH COMMUNITY

All Rush community members are responsible for reviewing this Policy and complying with it.

A. Employee Reporting Responsibilities

All Rush employees have a duty to report alleged violations of this Policy to OIE when they receive a report of Prohibited Conduct, witness Prohibited Conduct, or otherwise obtain information about Prohibited Conduct.

Confidential Resources are not required to report Prohibited Conduct to OIE, nor are partially Confidential Resources. Partially Confidential Resources, however, are required to report to OIE that an incident has occurred, and they must provide general details about the incident, but they are not required to disclose any personally identifiable information about the victim and/or reporting party. In addition, both Confidential Resources and Partially Confidential Resources who receive a disclosure of Prohibited Conduct are required to provide with the disclosing individual with the contact information for OIE and inform the individual that OIE may offer support and services.

Employees who have a professional license requiring confidentiality but are not employed by Rush in that professional role, or who receive a report outside of that role, are required to report Prohibited Conduct to OIE. An employee not reporting Prohibited Conduct as required by this Policy may be disciplined accordingly, up to and including termination.

B. Employee Participation

Additionally, Rush employees and Rush managers (those who formally supervise other employees) must cooperate with OIE's assessment or investigation under this Policy and must implement any sanctions that are imposed because of a violation of this Policy. Any Rush manager's failure to abide by the responsibilities outlined above; or any Rush manager's failure to

exercise appropriate discretion upon receiving a report under this Policy, may result in discipline, up to and including termination.

X. PROHIBITED CONDUCT

A. Discrimination

Discrimination is treating someone unfavorably on the basis of a protected personal characteristic, or imposing an unreasonable condition that disadvantages a person because of their protected personal characteristic. Discrimination excludes an individual from participation in, denies the individual the benefits of, treats the individual differently from or otherwise adversely affects a term or condition of an individual's employment, education, living environment, or participation in Rush employment or educational programs. Discrimination includes failing to provide reasonable accommodations to persons with disabilities, consistent with state and federal law.

A *protected personal characteristic* includes an individual's: race, sex, gender, color, religion, national origin (including shared ancestry and ethnic characteristics), language, age, ancestry, disability, marital or familial status, pregnancy, sexual orientation (including gender-related identity), military status, order of protection status, citizenship status, work authorization status, arrest or conviction record status, or any other categories protected by federal or state law, or local ordinance.

B. Harassment

Harassment, a specific form of discrimination, is unwelcome conduct based upon a protected personal characteristic that is sufficiently serious (i.e., severe, pervasive or persistent) and objectively offensive so as to create a work or learning environment that a reasonable person would consider intimidating, hostile, or abusive. Sex-based harassment is defined separately below. Prohibited Conduct does not need to rise to the level of violating federal or state law to violate this Policy.

Harassing conduct may take various forms, including but not limited to verbal abuse, slurs, name-calling, derogatory comments or insults, offensive graphic or written statements (including using the internet or social media), or any other conduct that may be harmful, humiliating, or physically threatening. Harassment does not have to include the intent to harm, be directed at a specific target, or involve repeated incidents.

C. Sex-Based Harassment

Sex-Based Harassment:

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

1. ***Quid Pro Quo Sexual Harassment*** is a Rush employee, agent, or other person authorized by Rush to provide an aid, benefit, or service conditioning the provision of an aid, benefit, or service of Rush on an individual's participation in unwelcome sexual contact.

Examples:

- Personnel decisions—or threatening that such decisions will be made—by managers regarding promotions, raises, evaluations, or scheduling based on an individual’s submission to or rejection of sexual contact.
- Submission to sexual contact used as a condition of keeping or getting a job, or receiving educational benefits, whether expressed in explicit or implicit terms.

2. ***Hostile Environment Sexual Harassment:*** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from Rush’s education program or activity (including employment opportunities). Sex-based harassment can also be based on stereotypical notions of what is female/feminine v. male/masculine, and/or a failure to conform to those gender stereotypes. Whether a hostile environment has been created is a fact-specific inquiry. The following factors will also be considered:

- The degree to which the conduct affected an individual’s employment, care, or participation in Rush’s education programs or activities, or other services;
 - The nature, context, scope, frequency, duration and location of the incident(s);
 - The relationship between the parties (including whether one individual has power or authority over the other, and differentials in age or status within the Rush community);
 - The identity, number and relationships of the people involved, including prior interactions and other factors about each party that may be relevant to evaluating the effects of the conduct; and
- Other sex-based harassment in Rush’s operations.

Examples:

- Repeated sexual remarks, jokes, questions, humor, or comments
- Using sexually explicit profanity
- Display of sexually suggestive objects, graffiti, videos, posters or pictures
- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact
- Unwelcome kissing, hugging, or massaging
- Asking about, or talking about, sexual fantasies, sexual preferences, or sexual activities
- Leering or staring at someone in a sexual way, such as staring at a person’s breasts or groin
- Sending sexually explicit emails, text messages, or social media posts
- Commenting on a person’s dress in a sexual manner
- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes

Petty slights, annoyances, and isolated incidents (unless sufficiently serious) will not rise to the level of a violation of this Policy but may violate other Rush policies.

D. Specific Offenses of Sexual Assault, Domestic Violence, Dating Violence, Stalking, Violence on the Basis of Sex, Sexual Exploitation, and Retaliation

1. Sexual Assault

*Sexual Assault*³ means having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (*see below for definition of consent and incapacitation*). Sexual contact includes:

- Sexual intercourse (anal, oral, or vaginal), including penetration with a body part (*e.g.*, penis, finger, hand, tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or
- Sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification.

2. Domestic Violence

*Domestic violence*⁴ includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Illinois, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Illinois.

3. Dating Violence

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

For the purposes of this definition:

- a. Whether the relationship is of a romantic or intimate nature is determined by a variety of factors, including:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship

4. Stalking

³ Rush's definition of "Sexual Assault" is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. The statutory definition of Sexual Assault referenced by the Title IX regulations also includes having or attempting to have sexual contact between individuals who are related to each other within the degrees of relationship where marriage is prohibited by law.

⁴ Also referred to as Intimate Partner Violence.

Stalking is knowingly or intentionally engaging in a course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

- a. A “course of conduct” means two or more acts in which the stalker—directly, indirectly, or through third parties and by any method, device, or means—follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- b. “Substantial emotional distress” means significant mental suffering, anguish or alarm that may, but does not necessarily, require medical treatment or professional counseling.

5. Violence on the Basis of Sex

- a. Acts of violence or physical aggression: one or more acts of violence or physical aggression satisfying the elements of battery under Illinois law, whether the act or acts resulted in criminal charges, prosecution, or conviction. These acts must be committed, at least in part, based on a person’s sex, regardless of whether they resulted in criminal charges, prosecution, or conviction.
- b. A physical intrusion or invasion of a sexual nature under coercive conditions satisfying the elements of battery under Illinois law, whether the act or acts resulted in criminal charges, prosecution, or conviction.
- c. A threat of an act of violence or physical aggression or physical intrusion or invasion of a sexual nature causing a realistic apprehension that the originator of the threat will commit the act.

E. Sexual Exploitation

Taking non-consensual sexual advantage of another for anyone’s advantage or benefit, other than the person being exploited. It includes, but is not limited to: indecent exposure, prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photographs or other images involving sexual activity or nakedness, engaging in non-consensual voyeurism— inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity, arranging for others to commit non-consensual sexual penetration or conduct to a victim, and/or distributing or forcing others to view pornography.

F. Retaliation

Retaliation is an action—performed directly or through others—that is aimed to deter a reasonable person from engaging in a protected activity under this Policy or is done in retribution for engaging in a protected activity and is prohibited. Protected activity includes making a report of Prohibited Conduct, testifying, assisting, participating, or refusing to participate in any manner in any investigation, proceeding, or hearing under this Policy (except in the case of a manager, who is required to participate). Retaliation includes adverse action taken against any person because that person has opposed any practices prohibited under this Policy or because that person has engaged in protected activity. Retaliation includes intimidating, threatening, coercing, or in any way adversely impacting an individual because of the individual’s report or participation. Retaliation also includes peer retaliation, where a student engages in retaliation against another student. It can

also include conduct through associates or agents of a Complainant, Respondent, or participant in any investigation or proceeding related to this Policy.

XI. OTHER CONDUCT OF CONCERN

Reports of misconduct that, if substantiated, would not constitute a violation of this Policy and/or after an investigation are found unsubstantiated under this Policy, may nonetheless violate other Rush policies, or fall short of Rush's expectations for professionalism, civility, and standards of conduct. Such reports may be referred by OIE to a manager, appropriate administrator, and/or Human Resources for consideration and appropriate action. Nothing in this Policy prevents OIE from imposing non-disciplinary action in response to reports outside the scope of this Policy including but not limited to issuing reasonable no-contact orders, conducting advisory discussions, providing training, offering resources regarding Rush's policies and conduct expectations, and providing referrals for counseling and training.

XII. CONSENT, COERCION, AND INCAPACITATION

A. Consent

Consent is an understandable exchange of affirmative actions or words which indicate an active, knowing and voluntary agreement to engage in mutually agreed upon sexual activity. Consent requires an affirmative act or statement by each participant; it is not passive. When evaluating consent, Rush will consider the objective indications of consent from a reasonable person's perspective.

If coercion, intimidation, threats, and/or physical force are used, there is no consent (See Coercion below).

If a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent (See Incapacitation below).

If a person is asleep or unconscious, there is no consent.

If a person is below the minimum age of consent in the applicable jurisdiction, there is no consent. In Illinois, the age of consent is 17.

Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

Being in a romantic relationship with someone does not alone imply consent to any form of sexual activity.

Consent can be withdrawn. A person who initially consents to sexual activity and later withdraws that consent is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

Consent cannot be inferred from a person's manner of dress.

Silence or an absence of resistance does not imply consent, and consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

Consent to past sexual activity does not constitute consent to future sexual activity.

Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act. Consent may be withdrawn at any time. When consent is withdrawn, sexual activity must immediately stop.

B. Coercion

Direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person of ordinary susceptibility to perform an act which otherwise one would not have performed, or to acquiesce to an act which one would not have otherwise submitted. Coercion can include unreasonable and sustained pressure for sexual activity.

Coercive behavior differs from seductive behavior based on the degree of pressure applied. A person's words or conduct cannot amount to coercion unless they wrongfully impair the other's free will and ability to choose whether to engage in sexual activity. When a person makes it clear that he/she does not want to engage in sexual activity, that he/she wants to stop the sexual activity, or that he/she does not want to go past a certain point of sexual interaction, continued pressure applied by the other person may be coercive.

C. Incapacitation

Incapacitation is the inability, temporarily or permanently, to make an informed and rational decision to consent because the individual lacks conscious knowledge of the nature of the act (e.g., the ability to understand the "who, what, where, when, why or how" of the sexual interaction). An individual is incapacitated if they are mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that sexual activity is occurring.

Incapacitation can result from the use of alcohol, drugs, or medication. No single factor is determinative of incapacitation and an individual's level of intoxication from alcohol, drugs or medication is not always demonstrated by objective signs. Alcohol and other drugs impact each individual differently, and determining whether an individual is incapacitated requires an individualized determination. Rush does not expect community members to be medical experts in assessing Incapacitation. However, individuals should look for common and obvious warning signs that show an individual may be incapacitated or approaching incapacitation, including clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, bloodshot eyes, vomiting, combativeness, emotional volatility, or other unusual behavior. An incapacitated person cannot give consent. An individual's intoxication level may change over time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass and metabolism. It is critical, therefore, that any individual engaging in sexual activity is aware of both their own and the other individual's level of intoxication and capacity to give consent.

It is important to remember that the use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether consent is effectively sought and freely given. If there is any doubt as to the level or extent of one's own or the other individual's intoxication or Incapacitation, the safest course of action is to forgo or cease any sexual activity. Even where there

is insufficient evidence to establish Incapacitation, a Complainant's level of impairment may still be a relevant factor in establishing whether consent was sought and freely given.

A Respondent's voluntary intoxication is never an excuse for or a defense of Prohibited Conduct, and it does not diminish one's responsibility to determine that the other person has given consent.

XIII. STANDARD OF EVIDENCE

Alleged violations of this Policy will be analyzed using the preponderance of evidence standard. This standard evaluates whether it is *more likely than not* that a proposition is true than not true.