

PROCESS FOR RESOLVING REPORTS AGAINST FACULTY

Pursuant to the Dartmouth Sexual and Gender-Based Misconduct Policy

Dartmouth College (“Dartmouth”) is committed to providing a prompt and equitable response to reports of Prohibited Conduct under Dartmouth Sexual and Gender-Based Misconduct Policy (the “Policy”).¹ Dartmouth’s process for addressing Prohibited Conduct is grounded in fairness and support for all parties, includes procedural protections that ensure notice and meaningful opportunities to participate, and recognizes the dynamics involved in Prohibited Conduct. For additional information, including the definitions for specific forms of Prohibited Conduct and related concepts, see: [dartmouth-policies-procedures](#)

I. TO WHOM THIS PROCESS APPLIES

This process applies to acts of Prohibited Conduct reportedly committed by any member of the Dartmouth faculty as defined in the [Policy](#) (“Faculty Members”)² when:

1. the conduct occurs on Dartmouth premises or premises leased by or otherwise under the control of Dartmouth; and/or
2. the conduct occurs in the context of a Dartmouth employment, education, or research program or activity, including but not limited to Dartmouth-sponsored, Dartmouth-funded or otherwise Dartmouth-supported study abroad, research, internship, mentorship, summer session, conferences, meetings, social events, or other affiliated programs or premises, either online or in person; and/or
3. the conduct, regardless of location or context, has continuing adverse effects occurring on Dartmouth premises or in any Dartmouth employment, education, or research program or activity.

Any individual, regardless of affiliation with Dartmouth, may report Prohibited Conduct or participate in an investigation as a Reporting Party or witness.

II. MAKING A REPORT

Dartmouth encourages all individuals to report Prohibited Conduct or a potential violation of the Policy to the Title IX Coordinator and/or to local law enforcement. A Complainant has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, Dartmouth will assist a Complainant in contacting law enforcement at any time. Under limited circumstances posing a threat to health or safety of any individual or to comply with applicable law, Dartmouth may independently notify law enforcement.

¹ Throughout this policy, the pronouns “they,” “them” and “their” are used intentionally to be inclusive of all genders.

² When used in these procedures, the term Respondent refers to a Faculty Member who is reported to have violated the Policy.

An individual may make a report to Dartmouth, to law enforcement, to neither, or to both. Campus Title IX processes and law enforcement investigations operate independently of one another, although Dartmouth will coordinate information with the Department of Public Safety as part of the Initial Assessment. Anyone can make a report as follows:

- **Make a report to the Title IX Coordinator in person, by telephone, or by e-mail at:**

[Title IX Office](#)

Kristi Clemens	Title IX Coordinator and Clery Compliance Officer
Sophia Brelvi	Deputy Title IX Coordinator
Gary Sund	Deputy Title IX Coordinator

For appointments, call **603 646 0922** or email: TitleIX@dartmouth.edu

Parkhurst Hall, Suite 05, 14 North Main St., Hanover NH 03755

<https://sexual-respect.dartmouth.edu/>

- **Make a report to the Office of Human Resources in person, by telephone, by email, or online at:**

[Lorin Parker, Human Resources](#)

Director of Training & Development and Employment & Labor Relations
7 Lebanon Street
Hanover, NH 03755

(603) 646-2904 Email: lorin.e.parker@dartmouth.edu

- **Make an anonymous report through the [Dartmouth Compliance and Ethics Hotline](#), Dartmouth's telephone and web-based confidential reporting tool.** The Hotline allows the reporter to report concerns and communicate with Dartmouth administrators while maintaining anonymity. Depending on the nature of the information provided, Dartmouth's ability to respond may be limited. Additional information about anonymous reporting is located [here](#).

Telephone: (888)-497-0516

Online: www.dartmouth.ethicspoint.com

- **If on campus, contact the Department of Safety and Security in person, by telephone, or by e-mail for assistance in filing a criminal complaint and preserving physical evidence at:**

[Department of Safety and Security](#)

5 Rope Ferry Road
Hanover, NH 03755
(603) 646-4000
Safety.and.Security@Dartmouth.edu

- **If off campus, call 911 to reach local law enforcement, or contact:**

Hanover Police Department
(603) 643-2222 (non-emergency number)

The local police department where the conduct occurred.

A Complainant may pursue some or all of these steps at the same time (e.g., a Complainant may simultaneously pursue a Title IX report and a criminal complaint). When initiating any of the above options, a Complainant does not need to know whether they wish to request any particular course of action nor how to label what happened.

Upon receipt of a report from a Complainant or Reporting Party, the Title IX Coordinator or Deputy Title IX Coordinator, in consultation with the Office of Human Resources, will be responsible for making the following determinations:

1. Is the Respondent a Student, Employee (Faculty or Staff), Third Party or Invitee as defined in Section III of the Policy;
2. Does the reported conduct fall within the Policy's scope; and
3. Would the facts set forth by the report, if substantiated, constitute a violation of the Policy?

If the answer to any of these questions is no, the Title IX Office does not have the jurisdiction to resolve the report. The Title IX Coordinator will explain that determination to the Complainant or Reporting Party and refer that individual to the appropriate resources, including local law enforcement resources as applicable.

If the answer to all three questions is affirmative, the Title IX Office has the authority to investigate and resolve the report and will begin with the Initial Assessment described below. With respect to alleged conduct prohibited by the Policy, but only with respect to such alleged conduct, this process shall supersede all previous and existing Dartmouth procedures regarding informal or formal resolutions of grievances, complaints, or other concerns relating to faculty, including but not limited to those procedures set out in the *Agreement Concerning Academic Freedom, Tenure, and Responsibility of Faculty Members Voted by the Board of Trustees (January 15, 1971) after approval by the Faculty (October 19, 1970) as amended June 12, 2009* or any other part of the Organization of the Faculty of Dartmouth College; or any other formal or informal grievance process adopted or used by any or all faculties of Dartmouth. This process does

not supersede any other provision of the Organization of the Faculty of Dartmouth College.

In the event a Respondent is charged with a violation of other Dartmouth policy that is related to the alleged violation of the Sexual and Gender-Based Misconduct Policy, the Title IX Office may also investigate and resolve the related charge. If the Respondent is charged with a violation of another Dartmouth policy that is unrelated to the alleged violation of the Sexual and Gender-Based Misconduct Policy, the Title IX Office shall coordinate its investigation and resolution as appropriate with any such investigation or resolution under the other Dartmouth policy. Such coordination may include, at the discretion of the Title IX Office, the sharing of information that is relevant to an investigation or resolution under the other Dartmouth policy, on a private, “need to know” basis.

The Title IX Office will document each report or request for assistance, including requests for formal or informal resolution, as well as the response to any such report or request; and will review and retain copies of all reports generated as a result of any investigation. These records will be kept private to the extent required or permitted by law. Respondents shall have access to these records to the extent required by New Hampshire legal requirements for access to personnel records.

III. INITIAL ASSESSMENT

When the Title IX Office receives a report that the Title IX Office has the authority to investigate and resolve under the criteria described in the preceding section, an Initial Assessment will be conducted. The goals of the Initial Assessment are to provide a consistent, integrated and coordinated response to all reports and to ensure that all Dartmouth community members have equitable access to information about Dartmouth resources, policies and procedural options for resolving the report. The Initial Assessment seeks to gather information only to determine whether the Policy applies to the report and, if so, whether informal or formal resolution or any [interim or remedial protective measures](#) would be appropriate. It in no way represents a finding of fact or responsibility. The Initial Assessment will also include a determination whether a timely warning pursuant to the Clery Act is necessary to protect the safety of the Complainant, any other individuals, or the campus community.

The Initial Assessment is conducted by the Title IX Coordinator or, at the discretion of the Title IX Coordinator, a small interdepartmental team (the “Title IX Team”) that may include some or all of the following: the Title IX Coordinator, a Deputy Title IX Coordinator from the Respondent’s school, the Director of Safety and Security, and the Dean of the Respondent’s school.³ The Title IX Coordinator has the authority to include additional individuals or, based on considerations such as privacy, health and safety, and

³ All references to the “Dean” throughout this Complaint Process shall refer to the Dean of the School of the Respondent and shall include the Dean’s designee, whom the Dean shall identify in writing to serve in that capacity for any or all reports under the Policy and this Process.

timeliness, to conduct an Initial Assessment independently or with a smaller group.⁴ In all cases, the Title IX Team will be limited to those individuals who need to be informed in order to provide effective and equitable review and timely resolution of reports while protecting the privacy of parties and witnesses as fully as possible.

Generally, the Initial Assessment will consider the nature of the report, the safety of the individual and the campus community, and the Complainant's expressed preference for the manner of resolution in determining the appropriate course of action to achieve the goals of Title IX: to eliminate Prohibited Conduct (if founded), prevent its recurrence, and address its effects, as appropriate. The Initial Assessment typically includes a meeting with the Complainant or Reporting Party to understand the nature and circumstances of the report and to provide the Complainant or Reporting Party with information about resources, procedural options, and interim measures and an opportunity to discuss Dartmouth's policies. In addition to the in-person meeting, Dartmouth will provide the Complainant or Reporting Party with written information about resources, procedural options, and reasonably available interim measures. These resources shall include a notification about the process for seeking disability-based accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act and/or the Americans with Disabilities Act.

As part of the Initial Assessment of the facts, Dartmouth will:

1. Assess the nature and circumstances of the report;
2. Address immediate physical safety & emotional well-being of the Complainant or other campus community members;
3. Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding;
4. Notify the Complainant of the right to contact or decline to contact law enforcement, and if requested, assist them with notifying law enforcement;
5. Notify the Complainant of the availability of medical and counseling resources to address physical and mental health concerns and to preserve evidence;
6. Notify the Complainant of the importance of preservation of evidence;
7. Enter the report into Dartmouth's daily crime log if required by the Clery Act;

⁴ In the event any individual with a responsibility identified in this policy is a witness or has a conflict of interest that would compromise that individual's objectivity in discharging that responsibility, Dartmouth will appoint a designee.

8. Assess the reported conduct for the need for a timely warning under the Clery Act;
9. Provide the Complainant with information about on- and off-campus resources;
10. Notify the Complainant of the range of interim measures;
11. Provide the Complainant with a copy of the Policy and relevant procedures and an explanation of the procedural options, including informal resolution and formal resolution;
12. Inform the Complainant that they may seek an advisor of their choosing to assist them throughout the investigation and resolution of the report, and that the advisor may accompany them to any meeting or proceeding under this process;
13. Assess for evidence of a pattern or other similar conduct by the Respondent; and
14. Explain Dartmouth's policy prohibiting retaliation.

In some instances, a Complainant may request that Dartmouth provide interim remedial measures or supportive resources only, but that their identity not be shared with the Respondent or that Dartmouth not pursue an investigation. Where possible, Dartmouth will seek to accommodate a Complainant's request, provided that it can do so in the context of Dartmouth's responsibility to provide a safe and non-discriminatory environment for all Dartmouth community members. In reaching a determination about a request from the Complainant for confidentiality or the appropriate manner of resolution, a Complainant's request will be balanced against the following factors:

1. The seriousness, persistence or pervasiveness of the reported conduct;
2. The respective ages and roles of the Complainant and Respondent;
3. Whether there have been other complaints or reports of harassment, misconduct or Prohibited Conduct against the Respondent;
4. The right of the Respondent to receive notice and relevant information, including the names of the Complainant and any witnesses, before disciplinary action is imposed;
5. Whether the circumstances suggest there is a risk of the Respondent committing future acts of sexual violence or other violence, including but not limited to reported threats of sexual violence or other violence by the Respondent against the Complainant or others;

6. Whether the Respondent has a known history of arrests or prior conduct violations (at Dartmouth or elsewhere) indicating a history of violence;
7. Whether the sexual violence was reportedly committed by multiple individuals;
8. Whether the circumstances suggest there is an increased risk of future acts of sexual violence under similar circumstances;
9. Whether the sexual violence was reportedly perpetrated with a weapon;
10. Whether the Respondent is a Dartmouth employee;
11. Whether Dartmouth possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence); and
12. The Respondent's right to access information under any applicable law, regulation, or policy.

Dartmouth will take all reasonable steps to investigate and respond to the report consistent with a Complainant's request not to share identifying information or pursue an investigation, but its ability to do so may be limited based on the nature of the request. Where Dartmouth is unable to take action consistent with the request of the Complainant, the Title IX Coordinator or designee will inform the Complainant about the chosen course of action, which may include Dartmouth seeking disciplinary action against a Respondent as part of a formal resolution process (described below). Alternatively, the course of action may also include steps to limit the effects of the alleged conduct and prevent its recurrence that do not involve disciplinary action against a Respondent or revealing the identity of the Complainant.

The Initial Assessment will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made, and Dartmouth has sufficient information to determine the appropriate course of action. Dartmouth will seek to complete the Initial Assessment as promptly as possible, typically within ten (10) business days. There may be circumstances, however, where the Initial Assessment takes longer based on the availability of the Complainant or other necessary information, a Complainant's request to maintain privacy or not seek disciplinary action, or other factors outside of Dartmouth's control. Dartmouth also understands that a Complainant may engage in delayed decision-making, which may impact the timing of the conclusion of the Initial Assessment.

Before imposing [interim protective measures](#) against a Respondent involving removal from campus property, paid or unpaid administrative leave, or a material change in work responsibilities, Dartmouth shall undertake an individualized analysis of safety and risk for the campus community and risk to the integrity of any investigation of a report, and

shall provide the Respondent with written notice of the proposed interim protective measure and an opportunity to challenge the proposed interim protective measure. That notice shall include a statement that Dartmouth's use of any information the Respondent chooses to provide shall not be limited to evaluating the proposed interim protective measure but may extend to implementation of any aspect of the Policy or this resolution process. The Respondent may challenge the protective measure within 72 hours of the notice, either in writing or in a meeting with the Title IX Coordinator and the Dean. The Title IX Coordinator and the Dean will consult to evaluate whether the interim protective measure as proposed is reasonable and appropriate, and the Dean will decide whether to impose the interim protective measure. The Title IX Coordinator and Dean may also consult with the Provost or seek input from the Complainant. The Title IX Coordinator will notify the Complainant and Respondent in writing of the outcome of the challenge.

In the event that the Dean, in consultation with the Title IX Coordinator, decides an immediate threat to the health or safety of Students, Faculty, and/or Staff justifies emergency removal of a Respondent, the Dean shall notify the Respondent of the emergency removal and shall provide the Respondent with notice and an opportunity to challenge the removal immediately thereafter.

At the conclusion of the Initial Assessment, the Title IX Coordinator or Title IX Team may propose to refer the report for informal resolution or for formal resolution:

- Informal resolution includes the identification of interim remedial measures or community remedies to eliminate Prohibited Conduct, prevent its recurrence, and address its effects. Informal resolution does not involve disciplinary action against a Respondent.
- Formal resolution begins with a thorough, impartial and reliable investigation. The goal of the investigation and hearing process is to gather all relevant facts, provide notice and an opportunity to be heard, and determine whether the Policy has been violated; if so, Dartmouth will impose disciplinary action if appropriate.

At the conclusion of the Initial Assessment, the Complainant will receive a written notice of the determination about how Dartmouth proposes to proceed. If the form of resolution includes the Respondent's voluntary participation in informal resolution or if Dartmouth proposes to pursue formal resolution, the Respondent will also receive written notice. If Dartmouth proposes to pursue formal resolution, the written notice shall include:

- an opportunity for the Complainant and the Respondent each separately to respond within 72 hours, either in writing or in a meeting with the Title IX Coordinator and the Dean, to address the proposal to move forward with formal resolution;
- the instruction that parties should confine any response to whether the reported conduct, if true, falls within the Policy's scope; whether the

reported facts, if substantiated, would constitute a violation of the Policy; and compelling facts that would preclude any potential finding of a violation of the Policy, i.e., impossibility; and

- a statement that Dartmouth's use of any information the Complainant or Respondent chooses to provide shall not be limited to evaluating the appropriateness of formal resolution but shall extend to implementation of any aspect of the Policy or this resolution process.

The Title IX Coordinator shall consult with the Dean and will decide whether to pursue formal resolution or whether to dismiss a report. That decision must consider the allegations as reported to be true and must not involve a determination of credibility. The Title IX Coordinator will notify the Complainant and Respondent in writing of that decision.

As described above, a Respondent will be notified in writing when Dartmouth seeks action that would impact a Respondent, such as interim protective measures that restrict the Respondent's movement on campus or any teaching, research, or service responsibilities; the initiation of an investigation; or the decision to request the Respondent's involvement in Informal Resolution. To the extent required by New Hampshire law, Respondents shall also have the right to receive access to any personnel records pertaining to them that are created and maintained by Dartmouth.

IV. STANDARD OF EVIDENCE

In all stages of the process, Dartmouth will apply the preponderance of the evidence standard (i.e., more likely than not) when determining whether to conclude that Dartmouth policy has been violated.

V. ADVISORS

Complainants and Respondents are entitled to be accompanied and assisted by an Advisor of their choosing at both formal and informal meetings, investigation interviews and, if applicable, a subsequent panel hearing. There is no requirement that the Advisor be an individual from the Dartmouth community. Advisors may not participate in the process or speak on behalf of the Complainant or Respondent, although they may ask to suspend any meetings, interviews, or hearings briefly to provide consultation; Dartmouth retains the discretion to deny such requests if they are excessive, burdensome, or otherwise unreasonable. Advisors may not also be fact witnesses in the investigation. Complainants and Respondents may choose to have an attorney serve as their Advisor, but adjustments to the process, including scheduling of interviews or hearings, will not be made for any Advisors, including attorneys, if they unduly delay the process.

VI. INFORMAL RESOLUTION PROCESS

In recognition that a wide spectrum of conduct can constitute violations of Dartmouth policies, the Title IX Office may resolve reports informally as appropriate based on the

circumstances. Where an Initial Assessment concludes that informal resolution may be appropriate, Dartmouth will take prompt action through the imposition of individual and community remedies designed to maintain access to the educational, extracurricular, and employment activities at Dartmouth and to remedy the impacts of conduct on members of the Dartmouth community.

Informal resolutions generally are pursued under one or more of the following circumstances:

- When the Complainant, having been fully informed of all available options, has explicitly made the choice not to pursue a formal process or investigation, and is seeking interim remedial measures only
- When the Complainant and Respondent have agreed to an informal resolution that does not involve taking disciplinary action against the Respondent, and Dartmouth concurs that informal resolution is appropriate
- When Dartmouth identifies community-based remedies that may be appropriate to address or remedy concerns identified in the report

Depending on the type of informal resolution used, it may be possible for a Complainant to maintain anonymity.

An informal resolution process is voluntary, and a Complainant or Respondent (if participating) can ask to end the informal resolution process at any time before its completion. Before the completion of an informal resolution process, or if the resolution is not successfully concluded, a Complainant may request and Dartmouth may pursue formal resolution. If an informal resolution process is ended by request, any information obtained may be used in a subsequent formal resolution process and hearing. In addition, during the course of an investigation or formal resolution, the parties may request to halt the investigation and pursue informal resolution. The decision to pursue informal resolution after an investigation has begun must occur with the consent of the Complainant, the Respondent and Dartmouth.

Once a Complaint has been resolved through an informal resolution process that involves the participation of a Respondent in lieu of disciplinary action, the matter will generally be considered closed. Both the Complainant and Respondent will receive written notice when participation in informal resolution will be considered a final resolution of the report.

Potential remedies include targeted or broad-based educational programming or training, supported direct conversation or interaction with the Respondent, and/or indirect action by the Title IX Coordinator. An informal resolution may include mediation, as deemed appropriate by Dartmouth, although Dartmouth will generally not pursue mediation where the Prohibited Conduct involves severe or egregious forms of Prohibited Conduct.

Dartmouth will not compel a Complainant to engage in mediation, to confront the Respondent directly, or to participate in any particular form of informal resolution.

In all cases, the Title IX Coordinator or Title IX Team will have discretion to determine whether or not a referral to the Title IX Office for informal resolution or mediation is appropriate to the circumstances. The determination to use informal resolution, and the particular form of informal resolution will be communicated in writing to the Complainant, and if participating, the Respondent. The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution, which will typically be complete within sixty (60) business days of the initial report.

VII. FORMAL RESOLUTION PROCESS

As depicted in this [overview flow chart](#), a formal resolution process will occur when (a) a report of a violation of the Policy is made and the Complainant seeks a formal resolution; or (b) the Title IX Coordinator or Title IX Team determines that a formal resolution process is necessary after considering the safety of the broader campus community.

A. Investigation

1. Expectations for the Parties

During the investigation and resolution process, both the Complainant and Respondent have equal rights, including the opportunity to receive a written notice of investigation; to participate in the investigation; to review and present information and evidence; to be accompanied by an advisor of their choice to any meeting; to timely and equal access to information that will be used in disciplinary proceedings; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the outcome, sanction, and rationale; and to seek review of the finding.

The Investigator, not the parties, is responsible for gathering relevant evidence. The Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, and other evidence, if available. The parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution. In the event that a party declines to voluntarily provide material information, Dartmouth's ability to conduct a prompt, thorough, and equitable investigation may be impacted.

All Dartmouth community members are expected to provide truthful information in any report or proceeding under this Policy and are further expected to cooperate with Dartmouth in any such proceeding. Submitting or providing 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 sanctions.

This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated or no policy violation is found to have occurred.

2. Initiating an Investigation

The Title IX Office will appoint one or more trained investigators to conduct a prompt, thorough, fair and impartial investigation. The Title IX Office, in consultation with the Dean, will have the discretion to determine whether the investigator will be internal (an employee at Dartmouth) or external (an individual outside of the Dartmouth community), or a combination of both internal and external investigators working as co-investigators. The role of the investigator will be to gather information through interviews of the Complainant, Respondent, and witnesses and synthesize the information in a report that will be provided to the Complainant, Respondent and designated members of the Title IX Council. The investigation report will include all relevant information provided by either party that will be used in the determination of responsibility or sanction.

Any investigator used by Dartmouth will receive annual training on the issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of complainants while promoting accountability. The investigator will be impartial and free from conflict of interest or bias.

The Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the following information: (1) the names of the Complainant and the Respondent; (2) the date, time (if known), location, and nature of the reported conduct; (3) the reported policy violation(s); (4) the name of the investigator; (5) information about the parties' respective rights and responsibilities; (6) the prohibition against retaliation; (7) the importance of preserving any potentially relevant evidence in any format; (8) how to challenge participation by the investigator on the basis of a conflict of interest or bias; and (9) a copy of this policy. If the investigation reveals the existence of additional or different potential policy violations, including a violation of an interim protective measure, the Title IX Office will issue a supplemental notice of investigation.

3. Informational Meeting with the Respondent

The Respondent may respond to the notice of investigation in writing or request a meeting with the Title IX Coordinator within five (5) business days. At the initial meeting, the Title IX Coordinator or designee will

provide the Respondent with information about resources, procedural options, and remedial measures and an opportunity to discuss Dartmouth's policies. In addition to the in-person meeting, Dartmouth will provide the Respondent with written information about resources, procedural options, and interim measures. This meeting is informational in nature and is separate and distinct from a fact-gathering interview with the investigator.

4. **Overview of Investigation**

During an investigation, the investigator will seek to meet separately with the Complainant, Respondent, and relevant witnesses. Each party may suggest questions for the investigator to pose to the other party or witnesses. The investigator will also gather other relevant information or evidence, including documents, photographs, communications between the parties, and medical records (subject to the consent of the applicable person), and other electronic records as appropriate. If a person voluntarily chooses to share medical or counseling records with the investigator, the person should be aware that relevant information from the records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond. At the conclusion of the investigation, the Complainant and the Respondent will both have the opportunity to review and respond to all information gathered in the investigation, including information shared by the Complainant or the Respondent during their interviews or through evidence either provides.

The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. Dartmouth will not consider polygraph results.

The investigator may also consider information publicly available from social media or other online sources that comes to the attention of the investigator. The Title IX Office does not actively monitor social media or online sources, however, and as with all potentially relevant information, the Complainant, Respondent, or witness should bring online information to the attention of the investigator.

5. **Witnesses**

Both the Complainant and Respondent have the option to provide names of potential witnesses to the investigator. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual

information, or may have other information related to the incident, the disclosure, or related matters. Witnesses may not participate solely to speak about an individual's character; how individuals present themselves in other contexts (*e.g.*, friendly, kind, and well-liked) has little probative value in evaluating whether particular conduct occurred. Where witnesses are interviewed as part of the investigation, the name of the witness and the information gathered in the interviews will be shared with the parties at the conclusion of the investigation. The investigator has the discretion to determine which of those potential witnesses, or other persons, may have relevant information about the alleged conduct. Witnesses may include individuals outside the Dartmouth community.

6. **Additional Evidence**

Both the Complainant and the Respondent are permitted to provide other relevant evidence to the investigator. Evidence includes any facts or information presented in support of an assertion and may include text messages, email exchanges, timelines, receipts, photographs, etc. Any documentation shared by the Complainant or the Respondent with the investigator will be provided to the other party. The investigator may also consider additional documents, items or other relevant information.

During the course of the investigation, the parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the investigator. The investigator may consider such information in the investigation and will also share any information about retaliation or violation of the terms of an interim protective measure with the Title IX Coordinator for further action.

7. **Relevance and Evidentiary Considerations**

In general, the investigator has the discretion to determine the relevance and probative value of information proffered or received.

Information that does not directly relate to the facts at issue, but instead reflects upon the reputation, personality, qualities, or habits of an individual is character evidence and is not relevant to the determination of whether there is a Policy violation, and will therefore not be included in the investigator's review.

In addition, the investigator has the discretion to evaluate the following evidentiary considerations.

- a. ***Prior or Subsequent Conduct of the Respondent:*** Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of

mistake. For example, evidence of a pattern of prohibited conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a policy violation, may be deemed relevant to the determination of responsibility for the prohibited conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct so distinctive and so closely resembling either party's account of the encounter as to tend to prove a material fact may be considered. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

- b. ***Prior Sexual History of the Parties:*** An individual's character or reputation with respect to other sexual activity is not relevant and will not be considered as evidence. Similarly, an individual's prior or subsequent sexual activity is typically not relevant and will only be considered as evidence under limited circumstances. For example, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve other questions raised in the investigation. The investigator will determine the relevance of this information and both parties will be informed in writing if evidence of prior sexual history is deemed relevant.
- c. ***Prior Sexual History Between the Parties:*** Where the parties have a prior sexual relationship, and the existence of consent is at issue, the sexual history between the parties *may* be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether consent was sought and given during the incident in question. Even in the context of a relationship, however, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

8. **Acceptance of Responsibility**

At any point during the investigation, the Respondent may elect to accept responsibility for some or all of the policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion. Where there is an acceptance of responsibility as to all of the potential policy violations, the investigator

will complete an investigation report of all information gathered to date and refer the matter to the AHHC for sanctioning as described below.

9. Initial Investigation Report

The investigator shall produce an initial written investigation report that contains the relevant information and facts gathered during the investigation and may include direct observations and reasonable inferences drawn from the facts and discussion of any consistencies or inconsistencies between the various sources of information. As noted above, the investigator has the discretion to determine the relevance of any witness or other evidence and shall exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative. For example, the investigator shall exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. The investigation report will be a fair and thorough summary of all relevant information gathered that supports (or detracts from) the accounts of the Complainant, the Respondent or other witnesses.

At the time the initial written investigation report is produced, the Chair of the Title IX Council (described below in Section B), will appoint an Ad Hoc Hearing Committee (“AHHC”) under the procedures specified below. The initial investigation report will be shared with the Complainant and the Respondent and the AHHC to provide the parties and appropriate officials with equal and timely access to information that will be used in determining whether there was a policy violation and to enable the parties or AHHC to raise questions and/or request additional investigation prior to the conclusion of the investigation. The AHHC shall refrain from making any assessments regarding a finding of responsibility or sanction at this stage. Within five (5) business days, the parties and/or the AHHC may, in a written submission or an in-person meeting with the investigator, offer additional comment or feedback on the facts as gathered, clarify information previously shared, suggest additional witnesses, suggest additional lines of questioning or inquiry, or identify any other relevant information or evidence to assure the thoroughness, sufficiency and reliability of the investigation. Any information gathered through additional investigation steps will be shared with both parties and the AHHC, and, as appropriate, the parties and the AHHC may have the opportunity for further response if sufficient new information has been gathered.

10. **Final Investigation Report**

After reviewing any additional information and incorporating the feedback of the parties, the investigator will prepare a final investigative report, which will include a recommended finding as to whether there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation of the Policy or any other Dartmouth policies that were implicated in this investigation. In applying the preponderance of the evidence standard, the investigator will determine and articulate whether there is sufficient evidence to support the finding of responsibility, as to each element of each Policy violation at issue. The investigator retains the discretion to decline to make a finding of responsibility based on the determination that the Policy does not apply to the reported conduct. The investigator's determination, and a detailed rationale for the determination, shall be included in the final report.

The investigator's report will include findings of fact and credibility assessments based on the investigator's skill and experience and the investigator's interactions with the Complainant, Respondent, and witnesses, as well as the evidence provided.

Both the Complainant and the Respondent will receive simultaneous written notification of the recommended investigative finding relating to responsibility, the rationale, and the ability to contest the recommended investigative finding.

11. **Review of the Investigative Finding**

Either the Complainant or Respondent may accept or contest the recommended investigative finding. A party may contest the recommended investigative finding by asserting that (1) there was a material procedural error that substantially impacted the outcome, or (2) the preponderance of the evidence standard was not appropriately applied by the investigator. In evaluating whether the preponderance of the evidence standard was appropriately applied, the AHHC will determine whether there is confidence that the investigation report provides sufficient evidence to support the recommended finding of responsibility as to each element of each Policy violation at issue.

To contest the finding, the Complainant or Respondent must submit a written statement to the Title IX Coordinator within five (5) business days explaining why the party contests the recommended finding(s). Each party will have the opportunity to review and respond in writing to the other party's request for review of the recommended finding; any response must be submitted within three (3) business days.

In addition, where there is a recommended investigative finding of responsibility on one or more of the policy violations, either or both parties may submit a statement to the Title IX Coordinator for consideration by the AHHC in determining an appropriate sanction. The Complainant may submit a written statement describing the impact of the prohibited conduct on the Complainant and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The Dean may submit a written statement recommending a sanction, at the Dean's discretion.

The Title IX Coordinator will provide the final investigative report, the impact or mitigation statements, and the parties' other written submissions to the AHHC for further proceedings, as below. The AHHC will review the impact or mitigation statements only after reaching a determination about the recommended investigative finding.

- If either party contests the recommended investigative finding, the AHHC will hold a hearing to determine: (1) whether there was a material procedural error that substantially impacted the outcome and (2) whether the preponderance of the evidence standard was appropriately applied by the investigator. In evaluating whether the preponderance of the evidence standard was appropriately applied, the AHHC will determine whether there is confidence that there is sufficient evidence to support the recommended finding of responsibility as to each element of each Policy violation at issue.
- If the AHHC upholds a recommended investigative finding of responsibility or the AHHC determines that the evidence is sufficient to support one or more policy violations despite an investigative finding of insufficient evidence, the AHHC will make a finding of responsibility and issue a recommendation as to the appropriate sanction.
- If the AAHC upholds a recommended investigative finding of no responsibility or the AHHC determines there is insufficient evidence for a finding of responsibility, the AHHC will make a finding of no responsibility.
- If neither party contests a recommended investigative finding that the Respondent violated this policy, the AHHC will hold a hearing solely to determine the appropriate sanction.
- If neither party contests a recommended investigative finding that there was insufficient evidence to support a finding that the

Respondent violated this policy, the investigative finding becomes final.

B. Dartmouth Title IX Council and Ad Hoc Hearing Committee: Role, Procedure and Responsibility

The Title IX Council consists of fair and impartial decision-makers and is separate and distinct from the Title IX Team. Members of the Title IX Council shall consist of twenty-four elected members of the General Faculty, including fifteen members from the Faculty of Arts and Sciences and three members from each of the other three faculties, serving staggered three-year terms. All members of the Title IX Council will have received appropriate training to participate as informed and impartial decision-makers.

The role of the AHHC is to serve as a safeguard on the reliability and accuracy of the investigator's findings and conclusions through the hearing process described below. For the purpose of constituting an AHHC for a Complaint against a Respondent, the Chair of the Title IX Council, after consultation with the Title IX Coordinator and the Dean, will appoint an Ad Hoc Hearing Committee ("AHHC") consisting of five (5) Faculty Members from the Title IX Council who have been trained in resolution of reports of Prohibited Conduct under the Policy. Based on such consultation, the AHHC may or may not include members from the Respondent's School. The Title IX Coordinator or designee shall identify one member of the AHHC as the Chair. The AHHC members must have no prior experience with the parties, witnesses or incident(s) in question that would present any actual conflict of interest. The Complainant and Respondent will be informed of the composition of the AHHC and may raise a challenge for actual bias or conflict of interest in writing to the Title IX Coordinator before the review begins. The Title IX Coordinator shall consult with the Dean regarding each such challenge and shall render a determination in writing, which shall be final.

1. Role of the Chair

The Chair of the AHHC presides over the hearing process and shall have equal voice and vote with the other members. The Chair will be assisted by an administrative, non-voting Hearing Coordinator, who will assist the Chair in the administration of the hearing process, including procedural matters and decisions leading up to the hearing, determinations about information that will be considered or not, appropriate and inappropriate lines of questioning, and the overall decorum and conduct of the proceedings. The Hearing Coordinator may be a Dartmouth employee or an external professional. The Chair, in consultation with the Hearing Coordinator, is also responsible for delivering any communications on behalf of the AHHC, with appropriate input from other AHHC members.

2. **Hearing Process, Deliberations, and Outcome**

a. **Hearing Process**

The AHHC will receive the final investigation report, the impact or mitigation statements, and the parties' other written submissions, reasonably in advance of the hearing. Complainants and Respondents may submit a written statement to the AHHC, which must be submitted to the Chair of the AHHC twenty-four (24) hours before the hearing. The written statement submitted by each party will be shared with the other party. In lieu of, or in addition to, submitting a written statement, the parties will also have the opportunity to meet with the AHHC.

The hearing is an opportunity for the parties to address the AHHC. The parties may address any information in the final investigative report, supplemental statements submitted in response to the final investigative report or provide verbal impact and mitigation statements. In reaching a determination, the AHHC may also itself elect to meet with the Complainant, Respondent, or investigator, but the AHHC may not conduct its own investigation. The AHHC has the discretion to determine the format for the hearing and its deliberations. The AHHC may convene remotely or in person to conduct the hearing and its deliberations; the AHHC's deliberations shall be maintained as private.

Both the Complainant and the Respondent have a right to participate in the hearing, but neither party is required to participate in the hearing in order for the hearing to proceed. The Complainant and the Respondent both have the right to be heard by the AHHC and may each decide whether to exercise that right in person or remotely. While each party is addressing the AHHC, the other party shall participate in the hearing remotely. The parties both have the right to respond to any questions from the AHHC. The parties shall not directly question one another, although they may proffer questions for the AHHC, which may choose, in its discretion, to pose appropriate and relevant questions.

In reaching a determination, the AHHC may rely upon any information provided in the investigative report.

The AHHC shall arrange for a verbatim record of the hearing – excluding the AHHC's private deliberations – to be made by a court reporter who shall attend the hearing; the transcripts of the hearing shall be provided to the parties and the Dean, and may be

provided to the Provost, the President, and the Board as described below. The Dean shall have the right to attend the entire hearing remotely or in person.

b. Standard of Review

The role of the AHHC is to review the final investigation report to determine: (1) whether there was a material procedural error that substantially impacted the outcome and (2) whether the preponderance of the evidence standard was appropriately applied by the investigator. In evaluating whether the preponderance of the evidence standard was appropriately applied, the AHHC will determine whether there is confidence that there is sufficient evidence to support the investigator's finding as to each element of each Policy violation. Based on this review, the AHHC may accept or reject the investigator's recommended finding in whole or in part, including a determination that the evidence was sufficient to support a different finding; may request that further investigation be undertaken by the same or another investigator; may request that a completely new investigation be conducted; and/or may remand the matter to the Title IX Coordinator with instructions for further action. In reaching a determination, the AHHC may meet with the Complainant, the Respondent, and/or the investigator, but the AHHC may not conduct its own investigation.

After the AHHC has concluded its review of the final investigative report and any additional information requested, the AHHC shall convene to deliberate and render a recommendation to the Provost, by majority vote, regarding whether the recommended investigative finding should be upheld. If there is a recommended finding of responsibility for any violation, the AHHC will also deliberate and make a recommendation to the Provost as to an appropriate sanction.

If the AHHC reaches a recommendation that the Respondent is responsible for one or more violations of the Policy or other applicable Dartmouth policies, the AHHC will then deliberate as to a recommendation of an appropriate sanction. In reaching this determination, the AHHC may consult with the Title IX Coordinator or the Respondent's Dean.

c. Sanctioning Process

The Policy prohibits a broad range of conduct, all of which is serious in nature. In keeping with Dartmouth's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the AHHC has great latitude in the

recommendation of sanctions tailored to the facts and circumstances of each report, the impact of the conduct on the Complainant and surrounding community, and accountability for the Respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting Dartmouth's educational mission and federal obligations. Some conduct, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or separation from Dartmouth.

The AHHC may recommend that one or more sanctions be imposed, including, but not limited to, oral or written warning, disciplinary probation, suspension, termination of a term appointment or tenured employment, training, guidance, adjustment of supervisory or evaluative responsibilities, and measures to protect health and safety. In reaching a recommendation of termination of a term appointment or tenured employment, as the gravest of sanctions with irrevocable consequences for a Respondent's academic career, the AHHC must carefully consider and explain in its recommendation why a lesser sanction is insufficient to achieve the goals of imposing sanctions as described above.

The AHHC may solicit information from the Complainant, the Respondent, and any other Dartmouth administrator who can provide information relevant to a determination regarding potential sanctions, including information about, any previous violations of Dartmouth policies. The AHHC may also review any written impact or mitigation statement submitted by the Complainant or Respondent.

In recommending the appropriate sanction, the AHHC shall consider the following factors:

- the nature and context of the conduct at issue;
- the impact of the conduct on the Complainant;
- the impact or implications of the conduct on the community or Dartmouth;
- prior misconduct for which the Respondent has been found responsible, including the Respondent's relevant prior discipline history, both at Dartmouth or elsewhere (if available), including criminal convictions;

- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful environment conducive to learning, including whether there is a continued hostile environment on campus caused by the Respondent's conduct;
- the presence or absence of bias as a motivation for the Respondent's conduct;
- protection of Dartmouth community requiring extended protective measures or other sanctions; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

The AHHC will issue a written recommendation and rationale, including a recommended finding of responsibility or non-responsibility and violation of the Policy, and, if applicable, the recommended sanction and rationale. The AHHC will typically complete its review and submit its written recommendation and rationale to the Provost for consideration, with copies to the Parties and the Respondent's Dean, within ten (10) days of the hearing. The AHHC's communication to the Parties shall include notification of the right to submit written statements challenging the AHHC's recommendation on the following grounds:

- i. Substantial procedural error that materially affected the recommended outcome and/or sanction; or
- ii. New evidence not reasonably available at the time of the hearing that would have materially affected the recommended outcome and/or sanction.⁵

A concise written challenge describing either or both of the above grounds must be submitted to the Provost within three (3) business days following delivery of the notice of the AHHC's recommendation. Each party may respond in writing to any appeal submitted by the other party. Written responses must be submitted within three (3) business days following delivery of the notice of

⁵ The time frame for submitting a statement based on newly discovered information may be extended at the discretion of the Title IX Coordinator where the evidence could not reasonably have been discovered within the time frame and a compelling justification exists for its consideration.

the written appeal. Written requests for appeal submitted by one party will be shared with the other party.

Regardless of the outcome, the AHHC may recommend to the Title IX Coordinator additional remedies for the Complainant to address the effects of the conduct on the Complainant, restore the Complainant's access to Dartmouth programs and activities, and restore to the Complainant, to the extent possible, benefits and opportunities lost as a result of the Prohibited Conduct. The AHHC may also identify remedies to address the effects of the conduct on Dartmouth community.

The Title IX Coordinator will review the remedies recommended by the AHHC and will consider the appropriateness of continuing interim remedial or protective measures on an ongoing basis.

3. **Appellate Review by the Provost**

The Provost will review any requests for appeal by the parties; the AHHC's recommendation and rationale; and any part of the record before the AHHC – including but not limited to the transcript of the hearing – that the Provost deems appropriate. After meeting with the members of the AHHC to discuss their recommendation and rationale, the Provost will render a decision on whether to accept or decline any or all aspects of the AHHC's recommendation and rationale (as to whether the investigative finding should be upheld, if Respondent has violated the Policy and, if so, what the sanction shall be).

If the Provost decides to decline any or all aspects of the AHHC's recommendation and rationale, the Provost shall convene the Deans of the four faculties in person or by virtual means for a consultation. Based on that consultation, the Provost shall reach a decision. If the Provost finds that substantial procedural error materially affected the AHHC's recommendation, the Provost shall remand the matter for further process to remedy the error (based on the nature of the procedural error) and the matter shall be heard by a new AHHC. If the Provost finds that new evidence not reasonably available at the time of the hearing would have materially affected the AHHC's recommendation, the Provost will return the matter to the same AHHC that originally heard the matter for reconsideration in light of the new evidence, and will give the AHHC instructions in writing regarding the nature and extent of that reconsideration.

Following reconsideration, the determination of the AHHC will be final and not subject to further appeal, with the exception of a determination

including a sanction of termination of a Respondent's term or tenured appointment, which shall then move as a recommendation to the President as described below. The AHHC will notify the parties in writing of the outcome.

If the Provost decides on other grounds to decline any or all aspects of the AHHC's recommendation and rationale, the Provost's written decision shall describe what the investigative finding, Policy violation finding, and sanction, as applicable, shall be.

If the Provost determines that there is adequate cause for the termination of a term appointment or tenured employment and that such should be the sanction, then such a determination will be a recommendation to the President that such sanction be imposed, and the Provost shall notify the Parties and the Dean in writing of such recommendation. Otherwise, the Provost shall notify the Parties and the Dean in writing of the finding of responsibility and the sanction. The Provost's decision shall be final and the sanction shall be imposed, with the exception of a termination of a term appointment or tenured employment, in which instance the Provost's recommendation shall move to the President as described below.

4. Review by the President and Board of Trustees

Any recommendation by the Provost to terminate a Respondent's term appointment or to terminate a Respondent's tenured employment will be considered by the President along with the report and recommendation of the AHHC and any part of the record before the AHHC – including but not limited to the transcript of the hearing – that the President deems appropriate.

If the President agrees that the circumstances require a recommendation of termination of a term appointment or termination of tenured employment, the President shall so recommend in writing to the Board of Trustees. The manner of the review of the President's recommendation of termination by the Board of Trustees will be determined by the Board Chair in consultation with the Chairs of the Academic Affairs Committee and the Audit Committee and implemented consistent with the requirements of Title IX and the Clery Act. The Board's review shall be limited to a review of the President's recommendation of termination and may take into account all relevant information from the existing record of the matter, but shall not include a review of the underlying finding of responsibility or consideration of information not contained in the existing record of the matter. Rather, the Board will evaluate the appropriateness and the proportionality of the sanction as it relates to the specific policy violations

found. The Board shall make a final decision about the sanction, notifying the parties, the Dean, the Provost, and the President in writing.

If the President does not agree with the Provost's termination recommendation, the President shall return the case to the Provost with a written direction to impose a lesser sanction than termination, and the Provost shall notify the Parties and the Dean in writing of the finding of responsibility and the sanction.

C. The Effect of Withdrawal and Level of Participation

If a Complainant or Respondent chooses not to answer questions or participate in an investigation, Dartmouth will continue its process and may issue sanctions if there is a finding of responsibility. Dartmouth will not draw any adverse inference solely from a Complainant's or Respondent's decision not to participate in the investigation or any form of resolution under this policy; however, the Complainant or Respondent should be aware that declining to participate in the investigation may impact the timing and outcome of the case.

If a Respondent voluntarily separates from Dartmouth, regardless of the status of the matter under this process, the Title IX Coordinator may proceed with further action as necessary to eliminate, prevent or address any impacts of the reported conduct on the institutional environment.

The Complainant may also request to withdraw a report at any time before a decision is reached. Dartmouth reserves the right to make a determination via the Title IX Coordinator or Title IX Team whether to approve or deny this request but will strongly consider the Complainant's wishes as well as the safety of the broader campus community.

VIII. TIME FRAME FOR COMPLETION OF INVESTIGATION AND DISCIPLINARY PROCESS

Dartmouth's overarching goal is to complete an investigation and disciplinary process, if any, in a prompt, fair, and impartial manner following the issuance of the notice of the investigation. This process designates reasonably prompt time frames for the major stages of the investigation and resolution process (typically set forth in business days), but Dartmouth may extend any timeframe in this policy for good cause. An extension may be required for good cause to ensure the integrity and thoroughness of the investigation; to comply with a request by law enforcement; in response to the unavailability of the parties or witnesses; or for other legitimate reasons, such as intervening breaks in the Dartmouth calendar, finals periods, the complexity of the investigation, the volume of information or length of the written record, and/or the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, Dartmouth cannot unduly or unreasonably delay the prompt resolution of a report under this policy.

Reasonable requests for delays by the parties will serve to extend the anticipated time period for resolution of the report. The Title IX Coordinator, in consultation with the investigator, has the authority to determine whether an extension is required or warranted by the circumstances, and will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension.

Although cooperation with law enforcement may require Dartmouth to suspend the fact-finding portion of a Title IX investigation temporarily, Dartmouth will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. Dartmouth will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide appropriate interim remedial measures for the Complainant.