

Dartmouth College Campus SaVE Policy Statement

I. Introduction

Dartmouth College ("Dartmouth") is firmly committed to maintaining an educational environment in which Sexual Harassment and Sexual Assault (collectively referred to in this policy as Sexual Misconduct) is not tolerated, and in which survivors of sexual misconduct are provided support and avenues of redress. Dartmouth will take prompt and appropriate action to prevent sexual misconduct, prevent its recurrence, and remedy its effects on the survivor.

Dartmouth College is committed to the principle of equal opportunity for all its students, faculty, employees, and applicants for admission and employment. For that reason Dartmouth does not discriminate on the basis of race, color, religion, sex, age, sexual orientation, gender identity or expression, national origin, disability, or military or veteran status in its programs, organizations, and conditions of employment and admission. In the areas of discrimination on the basis of sex and gender identity or expression, for example, prohibited discrimination may include adverse actions (whether sexual in nature or not) that are based on animus toward an individual because of sex, gender identity or expression, or that are based on an individual's non-conformity with gender stereotypes. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in all academic, educational, extracurricular, athletic and other programs and activities of Dartmouth College. Title VII of the Civil Rights Act of 1964 and New Hampshire state law prohibit discrimination on the basis of sex in employment. Sexual harassment, sexual assault and other acts of sexual misconduct, as well as domestic violence, dating violence and stalking are forms of sex discrimination prohibited by law and College policy. The prohibition against sex discrimination applies regardless of whether the activity is conducted on campus, off campus, in transit or if sponsored at other locations. In addition to protecting Dartmouth students, faculty and staff, Title IX and Dartmouth policy protect third parties from sexual harassment or sexual misconduct in Dartmouth's programs and activities. (For example, Title IX would protect a visiting student-athlete). If the College learns of prohibited sex discrimination in any of these forms, it will take immediate steps to eliminate the discrimination, harassment or misconduct, prevent its recurrence, and address its effects. Dartmouth provides many resources to students, faculty and staff to address concerns relating to sexual misconduct and other forms of sex discrimination. Please see <http://www.dartmouth.edu/sexualabuse/help/> for more information.

II. Definitions

- A. **"Aiding, Abetting, or Inciting"** means participating in, soliciting, directing, or assisting in Sexual Assault.

- B. "**Clery Act**" means the **Jeanne Clery** Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- C. "**Complainant**" means a person making a complaint of Sexual Misconduct under this policy. The term "reporting person" may also be used to refer to the person who makes a complaint of Sexual Misconduct under this policy.
- D. "**Consent**" means clear and unambiguous agreement, expressed in mutually understandable words or actions, to engage in a particular activity. Whether valid consent has been given will be judged based upon what a reasonable person would have understood from such words or actions. Consent must be voluntarily given and is not valid (1) if obtained by physical force, coercion, or threat; (2) when a person is Incapacitated; or (3) when an intellectual or other disability prevents a person from having the capacity to give consent. Consent to engage in one sexual activity, or agreement to engage in a particular sexual activity on a prior occasion, cannot be presumed to constitute consent to engage in a different sexual activity or to engage again in a sexual activity. Consent can be withdrawn by either person at any point.
- E. "**Incapacitation**" means that a person lacks the capacity to give Consent to sexual activity because the person is asleep, unconscious, mentally and/or physically helpless, or otherwise unaware that sexual activity is occurring. Incapacitation is not necessarily the same as legal intoxication. Where alcohol or other drugs are involved, evaluating Incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's: decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.
- F. "**Intentional Incapacitation**" means providing alcohol or other drugs to a person with the intent to render the person Incapacitated.
- G. "**Reporting Person**" means:
 - 1. a person who alleges that another person violated this policy; or
 - 2. a person who alleges that a Student Organization is responsible for a violation of this policy under the College's Group Accountability Statement.

Any person – regardless of race, color, religion, sex, age, sexual orientation, gender identity or expression, national origin, disability, or military/veteran

status – may be a Reporting Person. A Reporting Person need not be a Dartmouth student, faculty member, or staff member.

H. **"Responding Person"** means:

1. a person accused of: Sexual Assault; Aiding, Abetting, or Inciting Sexual Assault; Dating Violence, Domestic Violence, Stalking or Retaliation; or
2. an Organization accused of Sexual Assault; Aiding, Abetting, or Inciting Sexual Assault; Dating Violence, Domestic Violence, Stalking or Retaliation.

Any person – regardless of race, color, religion, sex, age, sexual orientation, gender identity or expression, national origin, disability, or military/veteran status – may be a Responding Person.

I. **"Retaliation"** means engaging in conduct that may reasonably be perceived to (1) adversely affect a person's educational, living, or work environment because of their good faith participation in the reporting, investigation, and/or resolution of report of a violation of this policy; or (2) discourage a reasonable person from making a report or participating in an investigation under this policy. Retaliation includes but is not limited to: acts or words that constitute intimidation, threats or coercion intended to pressure a person to drop or support a complaint under this policy or to provide false or misleading information in connection with an investigation; and pressuring a person to participate or refrain from participating as a witness in an investigation under this policy. Retaliation may constitute a violation of this policy even when the underlying report made in good faith did not result in a finding of responsibility. .

J. **"Sexual Assault"** means unwanted or unwelcome touching of a sexual nature, including: fondling; penetration of the mouth, anus, or vagina, however slight, with a body part or object; or other sexual activity that occurs without valid Consent.

K. **"Sexual Harassment"** includes any of the following behaviors:

- (a) Hostile Environment -- unwelcome sexual advances, requests for sexual favors, and other visual, verbal, or physical conduct of a sexual nature when the conduct is sufficiently severe or pervasive to deny or limit the victim's ability to participate in or benefit from Dartmouth's educational programs or benefits by creating an intimidating or hostile environment.
- (b) Quid Pro Quo -- unwelcome sexual advances, requests for sexual favors, and other visual, verbal, or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term

or condition of an individual's education, living environment, employment, or participation in a College-related activity or program.

- (c) Threats/Intimidation of a Sexual Nature – conduct of a sexual nature which reasonably would be expected to have the effect of threatening or intimidating the person at whom such conduct is directed.
- L. **“Dating violence”** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. (i) The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. (ii) For the purposes of this definition— (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (B) Dating violence does not include acts covered under the definition of domestic violence.
- M. **“Domestic Violence”** A felony or misdemeanor crime of violence committed— (A) By a current or former spouse or intimate partner of the victim; (B) By a person with whom the victim shares a child in common; (C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (E) 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 the jurisdiction in which the crime of violence occurred.
- N. **“Stalking”** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- O. **"Sexual Misconduct"** is a collective term which includes Sexual Harassment and Sexual Assault as defined in this policy. It also includes retaliation against a person for making a good-faith report of Sexual Misconduct or participating in good faith in a Sexual Misconduct investigation.

- P. **"Student"** means an individual enrolled as an undergraduate or graduate student in any Dartmouth College school or department, or a person enrolled in a Dartmouth College educational program, whether or not currently in attendance.
- Q. **"Student Organization"** means a recognized Dartmouth student organization and for purposes of this policy includes but is not limited to athletic teams, clubs recognized by the Committee on Student Organizations or other official College bodies, Greek letter organizations, and societies.

III. Reporting an incident

A. Contacts for Reporting.

Reports of violations of this policy should be made to:

- Title IX Coordinator
Heather Lindkvist
Title IX Coordinator/Clery Act Compliance Officer
Parkhurst Hall, Room 9B
603-646-0922
Heather.Lindkvist@dartmouth.edu; or

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

Support resources may be found at: [[http://www.dartmouth.edu/sexualassault/.](http://www.dartmouth.edu/sexualassault/)]

B. Reports to Law Enforcement and External Agencies.

To initiate a criminal investigation or prosecution, reports of criminal activity that may also violate this policy should be made to:

- 911
- Hanover Police Department
603-643-2222 (non-emergency number)

- The police department for the town or city where the crime occurred.

The criminal process is separate from the Dartmouth process.

C. Timeliness.

To promote timely and effective review, the College strongly encourages Reporting Persons and other persons with knowledge of possible violations of this policy to make reports as soon as possible following the conduct. A delay in reporting may impact the College's ability to gather relevant and reliable information. It may also impact the College's ability to take disciplinary action. While prompt reporting is encouraged, the College will receive and investigate reports of possible violations of this policy until (1) in the case of allegations against individuals, for students, until the Responding Person has graduated or permanently terminated enrollment; for employees, until the Responding Person's employment with Dartmouth has ended; and (2) in the case of allegations against Student Organizations, until four years after the incident.

D. Preservation of Information and Tangible Material.

Preservation of information and tangible material relating to Sexual Assault is essential for both law enforcement investigations and campus disciplinary investigations. Therefore, Reporting Persons, Responding Persons, witnesses, or others reporting possible violations of this policy, are encouraged to preserve all information and tangible material relating to the incident. Examples include electronic communications (e.g., e-mails and text messages), photographs, clothing, bedding, and medical information. In the case of medical information, prompt examinations can be crucial.

IV. Accommodations; Interim measures

Regardless of whether the Reporting Person chooses to report conduct which violates this Policy to Dartmouth College or to local law enforcement, the Reporting Person may be able eligible for changes to their academic, living, transportation, and working situations if such accommodations are reasonably available.

In addition, if the Responding Person is a member of the Dartmouth Community, the Reporting Person has the right to request that Dartmouth issue a "**no contact**" order that will direct the Responding Person not to have any contact with the Reporting Person. In addition, the Reporting Person has the right to request restraining orders, or similar lawful orders issued by a criminal, civil or tribal court. Employees of Dartmouth can assist in accessing resources from the court systems to pursue these options; however Dartmouth cannot obtain these orders on the Reporting Person's behalf.

V. Confidentiality:

Dartmouth will protect the confidentiality of individuals involved in disputes under this Policy to the extent permissible by law. As a private institution, Dartmouth's records regarding students and employees are generally not subject to access under the Freedom of Information Act or other open records laws. If Dartmouth is conducting an investigation to determine whether or not to sanction the individual accused of sexual misconduct, Dartmouth will typically have to identify the victim to the accused, and in some cases, witnesses, in order to conduct an impartial and fair investigation.

VI. Complaint procedures

A. Features common to all complaint procedures:

(i) Investigations

Following a report of sexual misconduct Dartmouth will conduct a prompt, fair and impartial investigation. An investigation is generally conducted to provide the most accurate information available. Even if the report is also made with the Hanover Police Department or another law enforcement agency, the College will conduct its own investigation in all cases, and will only delay its investigation to the extent necessary to avoid interfering with the criminal investigation. If the College defers to a criminal investigation for some period of time, interim measures will be considered and implemented as deemed necessary.

When the investigation is conducted by Dartmouth, the individuals who conduct the investigation will receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Investigations usually begin by asking the reporting person for a statement containing information about the conduct. The investigation may involve requesting additional statements from the reporting person or responding person and any witnesses, taking photos of individuals and/or the locations involved, and communicating with the individuals involved, and requesting information from other sources, such as law enforcement agencies. Once the investigation is completed, the results of the investigation are compiled by staff in the appropriate office, which will then make a determination about whether or not to charge the responding person with a violation of College policy.

The College will conduct investigations in as confidential a manner as practicable, sharing information with administrators and staff only as necessary to appropriately allow them to execute their professional responsibilities, and

with witnesses and others only as necessary for the College to reasonably solicit information and perform the investigation.

Investigations will usually be completed within 60 days from when the College receives the report, with some variation possible where necessary (for example, depending upon witness availability, academic calendar-related issues, the pendency of a criminal investigation to which the College decides to defer for some limited period of time, etc.)

(ii) Presence of Advisors

The reporting person and the responding person are entitled to the same opportunities to have others present during the institutional proceedings, including the opportunity to be accompanied to any related meetings or proceedings by the advisor of their choice.

(iii) Standard of Evidence

Dartmouth will use the "preponderance of the evidence" standard to determine whether or not someone has engaged in sexual misconduct.

(iv) Outcome

Both parties will be notified simultaneously and in writing (which may include email) of the outcome of the disciplinary proceeding, to the extent permitted by law, the procedure for appealing the decision, any changes to the outcome that occur prior to the time that the results become final and when the results become final.

Usually, written notice of the initial outcome will occur within 14 days of the conclusion of any investigation, hearing, and/or appeal, absent extenuating circumstances. If the responding student is found responsible, the reporting student will be advised of the sanction imposed, to the extent allowed by law.

The notice of the outcome shall include information about the appeal procedure. If as a result of an appeal, an outcome is changed, both parties shall be informed in writing of the change. Both parties shall be informed when the results become final.

(v) Reporting Immunity

A student who reports sexual misconduct, sexual assault, domestic violence, dating violence or stalking will not be charged for violations of Dartmouth's Alcohol or Other Drug Policy for activities that are related to the events leading to the report of misconduct.

B. Procedures unique to each group on campus

1. Students

Cases involving undergraduate and graduate students will be adjudicated using the procedures set forth below. While there are different procedures for adjudicating graduate and undergraduate students, the sanctions are the same and are set forth in a single section below.

1.a. Complaints against undergraduate students

In cases involving undergraduate students, the following procedures will apply in addition to those listed above:

Allegations that a student has engaged in a sexual assault will be adjudicated pursuant to the Unified Procedures for Sexual Assault by Students and Student Organizations, which can be found at:

http://www.dartmouth.edu/~deancoll/pdfs/unified_disciplinary_procedures_for_sexual_assault_final.pdf.

Allegations that a student has engaged in Sexual Harassment, Domestic Violence, Dating Violence or Stalking will be adjudicated pursuant to the “Disciplinary Procedures for Sexual Harassment, Domestic Violence, Dating Violence, or Stalking by Students and Student Organizations,” which can be found at:

http://www.dartmouth.edu/judicialaffairs/docs/sexual_harassment_policy.pdf.

In cases in which the College acts essentially as the reporting student because it decides to go forward with a disciplinary case in which the student allegedly subjected to sexual misconduct chooses not to participate, it will apply the process described in this section to the extent practicable.

1.b. Complaints against graduate students

In cases involving graduate students, the following procedures will apply in addition to those listed above:

Allegations that a graduate student has engaged in a sexual assault will be adjudicated pursuant to the Unified Procedures for Sexual Assault by Students and Student Organizations, which can be found at:

http://www.dartmouth.edu/~deancoll/pdfs/unified_disciplinary_procedures_for_sexual_assault_final.pdf.

Allegations that a graduate student has engaged in Sexual Harassment, Domestic Violence, Dating Violence or Stalking will be adjudicated pursuant to the

“Disciplinary Procedures for Sexual Harassment, Domestic Violence, Dating Violence, or Stalking by Students and Student Organizations,” which can be found at: [need link.]

Geisel School of Medicine:

https://geiselmed.dartmouth.edu/students/resources/pdf/Geisel_Policy_Sexual_Harassment.pdf.

Tuck: Link

Thayer: Link

2. Faculty Members

Complaints of Sexual Misconduct by members of the Faculty shall be resolved pursuant to the procedures set forth 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. (<http://www.dartmouth.edu/~dof/ofdc.pdf>.)

Those procedures shall be modified to the extent necessary to ensure the following requirements are met: The procedures must

- a. Provide for a prompt, fair, and impartial investigation and resolution.
- b. Be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault and stalking and how to conduct a hearing process that protects the safety of victims and promotes accountability.
- c. Provide to the accuser and the accused the same opportunities to have others present during the disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.
- d. Simultaneously inform the accuser and the accused, in writing, of:
 - i. the outcome of the disciplinary proceeding;
 - ii. the procedures for the accused and the victim to appeal the results of the disciplinary proceeding;

- iii. any changes in the results that occur prior to the time that such results become final; and
- iv. when the results become final.
- e. Faculty members can expect sanctions ranging from a written reprimand to termination for sexual misconduct.

3. Staff

Complaints of Sexual Misconduct against staff shall be resolved using procedures which, at a minimum:

- a. Provide a prompt, fair, and impartial investigation and resolution.
- b. Be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault and stalking and how to conduct a hearing process that protects the safety of victims and promotes accountability.
- c. Provide to the accuser and the accused the same opportunities to have others present during the disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.
- d. Simultaneously inform the accuser and the accused, in writing, of:
 - i. the outcome of the disciplinary proceeding;
 - ii. the procedures for the accused and the victim to appeal the results of the disciplinary proceeding;
 - iii. any changes in the results that occur prior to the time that such results become final; and
 - iv. when the results become final.
- e. Staff members can expect a sanction ranging from written reprimand to termination for sexual misconduct.

VII. Written notice of rights and options

Dartmouth will provide students, faculty and staff who report Sexual Misconduct with written information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available both on-campus and in the community. Dartmouth will provide students, faculty and staff who report

Sexual Misconduct with written information about options for and available assistance in changing academic, living, transportation, and working situations, if so requested and if such accommodations are reasonably available, regardless of whether the reporting person chooses to report the crime to campus police or local law enforcement. Dartmouth will provide students, faculty or staff who report to the institution that they been a victim of domestic violence, dating violence, sexual assault and stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the employee's rights as described in clauses (ii) through (vii) of (f)(8)(B) of the Campus SaVE Act.

VIII. Educational programs

Dartmouth provides educational programs to promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking. The programs include primary prevention and awareness training for incoming undergraduate and graduate students, incoming faculty and incoming staff. The programs also include ongoing prevention and awareness campaigns for existing undergraduate and graduate students and existing faculty and staff. Each program includes the following information:

- ii. Dartmouth's policy prohibiting domestic violence, dating violence, sexual assault and stalking.
- iii. The definitions of those offenses in the applicable jurisdiction.
- iv. The definition of consent within the applicable jurisdiction, and for students, the applicable College policies.
- v. Safe and positive options for bystander intervention to prevent harm or intervene in risky situations.
- vi. Recognition of the signs of abusive behavior and how to avoid potential attacks.
- vii. The information described in 20 USC 1092 (f)(8)(B)(ii) through (vii).