

## **PROCESS FOR RESOLVING REPORTS AGAINST STAFF** **Pursuant to Dartmouth Sexual and Gender-Based Misconduct Policy**

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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”).<sup>1</sup> 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 those employed by Dartmouth as staff members as defined in the [Policy](#) (“Staff Members”)<sup>2</sup> 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 a 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.

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

<sup>2</sup> When used in these procedures, the term Respondent refers to a Staff 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 email 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](mailto: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, or by e-mail at:**

**[Human Resources](#)**

**Lorin Parker**

Director of Training & Development and Employment & Labor Relations  
7 Lebanon Street  
Hanover NH 03784

For appointments, call **603 646 2904** or email: [Lorin.E.Parker@Dartmouth.edu](mailto: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](http://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](mailto: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, in consultation with the Office of Human Resources, will begin with the Initial Assessment described below. With respect to alleged conduct prohibited by this Policy, this process shall supersede all previous and existing Dartmouth procedures regarding informal or formal resolutions of grievances, complaints, or other concerns relating to staff or faculty, including but not limited to those procedures set out in Dartmouth's Employment Policies and Procedures Manual or any other formal or informal grievance process adopted or used by any or all divisions, departments, schools, or other units of Dartmouth.

In the event a Staff Member 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 Staff Member 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, the Director of Safety and Security, a Human Resources representative (the “HR representative”), and the Staff Member’s supervisor. The Title IX Coordinator has the authority to include additional individuals or, based on considerations such as privacy, health and safety, and timeliness, to conduct an Initial Assessment independently or with a smaller group.<sup>3</sup> 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

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<sup>3</sup> 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.

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;
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 sought;
5. Whether the circumstances suggest there is a risk of the Respondent committing additional 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 harassment 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.

At the conclusion of the Initial Assessment, the Title IX Coordinator or Title IX Team may 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 is to gather all relevant facts 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 plans 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. Furthermore, a Respondent will be notified in writing when Dartmouth seeks action that would impact a Respondent, such as 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 and interviews. 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**

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 HR representative, 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 additional information through interviews of the Complainant, Respondent, and witnesses and synthesize the information in a report. 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**

During an investigation, the investigator will seek to meet separately with the Complainant, Respondent, and relevant 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 Chief Human Resources Officer (CHRO) for sanctioning as described below.

#### **9. Initial Investigation Report**

The investigator will 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.

The initial investigation report will be shared with s the Complainant and the Respondent to provide the Complainant and the Respondent equal and timely access to information that will be used in determining whether there was a policy violation. Within five (5) business days, the Complainant and Respondent may, in a written submission or 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, as appropriate, the parties 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 determination 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.

The final report will be provided to the parties, the Title IX Coordinator, the Respondent's supervisor, and the Chief Human Resources Officer (CHRO) or designee.

Both parties will receive simultaneous written notification of the investigative finding, the rationale, and the ability to contest the investigative finding.

#### **11. Review of the Investigative Finding**

Either party may accept or contest the investigative finding. A party may contest the investigative finding by asserting that (1) there was a material procedural error that substantially impacted the outcome, or (2) there was no rational basis, applying a preponderance of the evidence standard, for the investigative finding.

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 finding(s). Each party will have the opportunity to review and respond in writing to the other party's request for review of the finding; any response must be submitted within three (3) business days.

In addition, where there is an 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 CHRO or designee 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 sanction(s) imposed.

The Title IX Office will provide any statements by the parties, attaching the final investigative report, to the CHRO or designee for further proceedings, as below:

- If either party contests the investigative finding, the CHRO or designee will determine: (1) whether there was a material procedural error that substantially impacted the outcome and (2) whether there was a rational basis, applying a preponderance of the evidence standard, for the investigative finding. If an

investigative finding of responsibility is upheld, the CHRO or designee will determine the appropriate sanction. The CHRO or designee has the discretion to determine whether to convene a conference to meet with the investigator, the Complainant or the Respondent, but may choose to rely solely on the investigative report in reaching a determination whether the finding should be upheld.

- If neither party contests a finding that the Respondent violated this policy, the CHRO or designee will determine the appropriate sanction.
- If neither party contests a finding that there was insufficient evidence to support a finding that the Respondent violated this policy, the investigative finding becomes final.

## **B. The Chief Human Resources Officer: Role, Procedure and Responsibility**

The Chief Human Resources Officer (CHRO) or designee is a fair and impartial decision-maker whose role is to serve as a safeguard on the reliability and accuracy of the investigator's findings and conclusions. The CHRO or designee will have received appropriate training to participate as an informed and impartial decision-maker. The Complainant and Respondent may raise a challenge for actual bias or conflict of interest as it relates to the CHRO or designee to the Title IX Coordinator before the review begins. The Title IX Coordinator shall render a determination in writing, which shall be final.

### **1. Role of the CHRO**

The role of the CHRO or designee is to review the investigative findings to determine: (1) whether there was a material procedural error that substantially impacted the outcome and (2) whether there was a rational basis, applying a preponderance of the evidence standard, for the investigative finding.

Based on this review, the CHRO or designee may accept or reject the investigator's finding in whole or in part, may request that further investigation be undertaken by the same or another investigator, may request that a de novo investigation be conducted, and/or may remand the matter to the Title IX Coordinator with instructions for further action.

If there is a finding of responsibility for any violations, the CHRO or designee will have the additional role of imposing an appropriate sanction. The CHRO may consult with the Respondent's supervisor, division or department head, the HR representative, or the Title IX Coordinator in determining the appropriate sanction.



The CHRO or designee will prepare a written decision and rationale, which will be shared simultaneously with the parties. The decision of the CHRO is final.

## **2. The Sanction and Decision**

If the CHRO or designee determines that the Respondent is responsible for one or more violations of the Policy or other applicable Dartmouth policies, the CHRO or designee will then deliberate as to an appropriate sanction. In reaching this determination, the CHRO or designee may consult with the Title IX Coordinator, the HR representative or the Respondent's division or department head.

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 CHRO has great latitude in the imposition 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 CHRO or designee may impose one or more sanctions, including, but not limited to, oral or written warning, disciplinary probation, suspension, termination of employment, training, guidance, adjustment of supervisory or evaluative responsibilities, and measures to protect health and safety.

The CHRO or designee 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 CHRO or designee may also review any written impact or mitigation statement submitted by the Complainant or Respondent.

In determining the appropriate sanction, the CHRO or designee 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 by the Respondent, 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 CHRO or designee will prepare a written decision and rationale, including a finding of responsibility or non-responsibility, and, if applicable, the sanction and rationale. The CHRO will typically complete its review within ten (10) days of the receipt of any statements by the parties regarding the final investigative report. Sanctions will be imposed immediately.

### **3. Additional Remedies**

Regardless of the outcome, the CHRO or designee may recommend 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 CHRO or designee 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 CHRO or designee and will consider the appropriateness of continuing interim remedial or protective measures on an ongoing basis.

## **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 by the CHRO or designee. 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 time frame 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.