

PROCESS FOR RESOLVING REPORTS AGAINST STUDENTS **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: <https://www.dartmouth.edu/sexualrespect/policies/index.html>.

I. TO WHOM THIS PROCESS APPLIES

This process applies to acts of Prohibited Conduct reportedly committed by any Dartmouth student, including undergraduate students, and students in the Guarini School of Graduate and Advanced Studies, the Geisel School of Medicine, the Thayer School of Engineering, and the Tuck School of Business as defined in the Policy (collectively known together as “Students”)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 College, 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,

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 Student who is reported to have violated the Policy.

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.

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 Safety and Security 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

Gary Sund Deputy Title IX Coordinator

Sophia Brelvi Deputy Title IX Coordinator

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

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

<https://sexual-respect.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

Safety.and.Security@Dartmouth.edu

(603)-646-4000

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

Hanover Police Department

(603)-643-2222 (non-emergency number)

Or 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 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. In the event a Respondent is charged with a violation of the applicable conduct code that is related to the report, 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 consistent with the requirements of the Federal Educational Rights and Privacy Act, Dartmouth's student records policy, and other applicable laws and policies.

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.

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 the Title IX Coordinator, a Deputy Title IX Coordinator, the Director of Safety and Security, and a representative from the Student Affairs office of the Respondent’s School. 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.³ 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;

³ 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.

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 imposed;
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 if such information is maintained in an "education record" under the [Family Educational Rights and Privacy Act \(FERPA\), 20 U.S.C. §1232g; 34 C.F.R. Part 99](#), and/or subject to any other 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 an [interim suspension](#) against a Respondent involving removal from Dartmouth property or programs, 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. Based on an evaluation of whether the interim protective measure as proposed is reasonable and appropriate, the Title IX Coordinator will decide whether to impose the interim protective measure. The Title IX Coordinator may also consult with a representative of the student affairs office of the Respondent's School 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 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 Title IX Coordinator 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 will proceed. Depending on whether Dartmouth will proceed with informal resolution or formal resolution, further information about the content and timing of that written notice can be found in Section VI (Informal Resolution Process) and Section VII (Formal Resolution Process).

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 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
- 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) to ninety (90) 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 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 the Title IX Hearing Panel (which is constituted as described below). 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. 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.

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 Hearing Panel 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 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 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, 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 finding as to whether there is sufficient information, by a preponderance of the evidence, to support 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 parties will receive simultaneous written notification of the investigative finding, the rationale, and the Hearing Panel process for review of the investigative finding and sanctioning, as appropriate.

11. Review of the Investigative Finding

Unless waived by both parties, the Title IX Hearing Panel (as constituted below) will review the investigative finding of responsibility. If the panel upholds a finding of responsibility, the panel shall determine an appropriate sanction. The hearing process is described in further detail below. The Hearing Panel will review the investigative finding to determine whether (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. The Complainant and the Respondent may choose to waive the review of the investigative finding.

The Complainant or Respondent have the opportunity to submit a written statement to the Title IX Coordinator within five (5) business days of the notice of outcome explaining any concerns related to the review of the investigative finding(s). Each party will have the opportunity to review and respond in writing to the other party's response; any response must be submitted within three (3) business days. In the absence of the identification of any issues by the Complainant or Respondent, the panel will identify and articulate any issues of concern.

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 Title IX Hearing Panel (which is constituted as described below) 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 Title IX Coordinator will provide any statement(s) with the final investigative report and the parties' other written submissions to the Hearing Panel.

B. Hearing Panel: Role, Procedure and Responsibility

A Title IX Hearing Panel consists of fair and impartial decision-makers. The role of the Hearing Panel is to provide all parties with an equitable opportunity to be heard; to serve as a safeguard on the reliability and accuracy of the investigator's findings; to give appropriate consideration to victim impact and mitigating factors; and to reach a full and fair determination of any sanction, should there be a finding of responsibility. All members of the Hearing Panel will have received appropriate training to participate as informed and impartial decision-makers.

A Title IX Hearing Panel comprises three Dartmouth Employees, identified as follows, whom the Title IX Coordinator or designee shall convene:

- The Director of Judicial Affairs;
- The Dean responsible for Student Affairs designated by the Dean of the College (if the Respondent is an undergraduate) or designated by the Dean of the Respondent's School; and
- A trained staff member, who holds an appointment outside the Complainant's and Respondent's declared majors or areas of concentration or School, as applicable.

The Title IX Coordinator or designee shall identify one member of the Hearing Panel as the Chair. The Hearing Panel 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 Hearing Panel and may raise a challenge for actual bias or conflict of interest to the Title IX Coordinator before the review begins. The Title IX Coordinator shall render a determination in writing on any such challenge, which determination shall be final.

The scope of the hearing shall be as follows:

- The Hearing Panel will 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 Hearing Panel will not conduct a de novo investigation of the facts but will determine whether there is confidence that there is sufficient evidence to support the finding of responsibility as to each element of each Policy violation at issue.
- If an investigative finding of responsibility is upheld or the Hearing Panel determines that the evidence is sufficient to support one or more policy violations despite an investigative finding of insufficient evidence, the Hearing Panel will make a finding of responsibility and issue a determination as to the appropriate sanction. If an investigative finding of no responsibility is upheld, or the Hearing Panel determines there is insufficient evidence for a finding of responsibility, the Hearing Panel will make a finding of no responsibility
- If both parties waive the review of the investigative finding that the Respondent violated this policy, the Hearing Panel will hold a hearing solely to determine the appropriate sanction.
- If both parties waive the review of the investigative finding that there was insufficient evidence to support a finding that the Respondent violated this policy, the investigative finding becomes final.

1. Role of the Chair

The Chair of the Hearing Panel presides over the Hearing Panel and shall have equal voice and vote with the other members. The Chair may 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 Hearing Panel, with appropriate input from other Hearing Panel members.

2. Hearing Process, Deliberations, and Outcome

a. Hearing Process

The Hearing Panel will receive the final investigation report and the impact or mitigation statements reasonably in advance of the hearing. Complainants and Respondents may submit a written statement to the Hearing Panel, which must be submitted to the Chair of the panel 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 Hearing Panel if either so wishes.

The hearing is an opportunity for the parties to address the Hearing Panel. 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 Hearing Panel may also itself elect to meet with the Complainant, Respondent, or investigator, but the Hearing Panel may not conduct its own investigation. The Hearing Panel has the discretion to determine the format for the hearing and its deliberations. The Hearing Panel may convene remotely or in person to conduct the hearing and its deliberations; the Hearing Panel's deliberations shall be maintained as private.

Both the Complainant and the Respondent have a right to participate in the hearing, but participation is not mandatory: neither party is required to participate in the hearing in order for the hearing to proceed, and the Hearing Panel may not draw a negative or adverse inference from a party's decision not to participate. The Complainant and the Respondent both have the right to be heard by the Hearing Panel and may each decide whether to exercise that right in person or remotely. While each party is addressing the Hearing Panel, the other party shall participate in the hearing remotely. The parties both have the right to respond to any questions from the Hearing Panel and to pose questions to the investigator. The parties shall not directly question one another, although they may proffer questions for the Hearing

Panel, which may choose, in its discretion, to pose appropriate and relevant questions regarding the limited issues under review in the hearing.

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

b. Standard of Review of Investigative Finding

If either party contests the investigative finding, the Hearing Panel will 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 Hearing Panel 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 Hearing Panel may accept or reject the investigator's 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 Hearing Panel may meet with the Complainant, the Respondent, and/or the investigator, but the panel may not conduct its own investigation.

After the Hearing Panel has concluded its review of the Final Investigative Report and any additional information requested or provided, the Hearing Panel shall convene to deliberate and render a determination. If the Hearing Panel determines that the Respondent is responsible for one or more violations of the Policy or other applicable Dartmouth policies, it will then deliberate as to an appropriate sanction as described below. If the Hearing Panel determines that the Respondent is not responsible for one or more violations of the Policy or other applicable Dartmouth policies, the Chair shall prepare a written decision and rationale on behalf of the Hearing Panel, which shall be provided simultaneously to the parties and the Title IX Coordinator.

3. The Sanctioning Process and Decision

If the Hearing Panel determines that the Respondent is responsible for one or more violations of the Policy or other applicable Dartmouth policies, then, following the hearing on the finding of responsibility, the panel will then deliberate as to an appropriate sanction. Alternatively, if neither party contests a finding that the Respondent violated this policy, the Hearing Panel will hold a hearing solely to determine the appropriate sanction.

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 Hearing Panel 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. Sanctions may include educational, restorative, rehabilitative, and punitive components. 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 Hearing Panel may impose one or more sanctions, which may include any of the sanctions that are listed below or any sanctions that are identified for violations of the [applicable conduct standard of the Respondent's school](#).

The Hearing Panel may solicit information from the Complainant, the Respondent, the Title IX Coordinator, 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 Hearing Panel may also review any written impact or mitigation statement submitted by the Complainant or Respondent.

In determining the appropriate sanction, the Hearing Panel 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.

Sanctions may be imposed individually or in combination. For violations of this policy, the following sanctions may be imposed:

- fine;
- restitution;
- educational/counseling requirement;
- warning;
- reprimand;
- Dartmouth probation;
- no-contact order;
- restriction from specific Dartmouth programs or activities;
- housing restriction/relocation;
- restriction from Dartmouth employment;
- suspension;
- separation/expulsion;
- organizational loss of Dartmouth recognition;
- organizational removal from Dartmouth-owned housing; or
- loss of organizational insurance coverage.

The sanction shall be separation/expulsion from Dartmouth where:

- the finding of responsibility reflects that the Respondent, by use of physical force, threat, or providing alcohol or drugs to the Complainant with the intention to induce a state of incapacitation, engaged in either
- (A) any form of sexual penetration (anal, oral, or vaginal), however slight, by a body part or object; or
- (B) oral-genital, oral-anal, or genital-genital contact; or
- the finding of responsibility reflects that the Respondent engaged in any form of sexual penetration, oral-genital contact, oral-anal contact, or genital-genital contact, as described above, and was motivated by bias on account of race, color, religion, sex, age, sexual orientation, gender identity or expression, national origin, disability, or military/veteran status; or
- the Respondent has previously been found responsible for Sexual Assault.

The Chair prepares the Hearing Panel's written decision and rationale, including a finding of responsibility or non-responsibility, and, if applicable, the sanction and

rationale. Within five (5) business days, the report of the Hearing Panel will be provided simultaneously to the parties.

Sanctions will be imposed immediately. If a Respondent is found responsible and the sanction includes separation, they will be immediately removed from campus residentially and (depending on circumstances, and at the discretion of the Title IX Office, consulting as necessary with other members of the Title IX Team, if a Team has been appointed) either severely restricted in their movements on campus (e.g. only able to attend classes and labs) or barred completely during the entirety of the appeal process. In cases adjudicated prior to the last day of classes, if the final sanction is separation from Dartmouth (i.e. suspension, suspension with conditions, or expulsion), the granting of credit for the semester and/or the awarding of a degree will be at the discretion of Dartmouth. At any time, for example, for cases where the outcome has not been determined prior to the last day of classes, Dartmouth may place an administrative hold on the Respondent's transcript, make a transcript notification, or defer or withhold the award of the Respondent's degree.

4. Remedies

Regardless of the outcome, the Hearing Panel 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 Hearing Panel 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 Hearing Panel and will consider the appropriateness of continuing interim remedial or protective measures on an ongoing basis.

C. The Appeals Process

Both parties have the right to appeal final determination of responsibility and/or the resulting sanction based on the following limited grounds:

1. Substantial procedural error or bias that materially affected the outcome and/or sanction; or
2. New evidence not reasonably available at the time of the hearing.⁴

A concise written request for appeal must be submitted to the Title IX Coordinator within three (3) business days following delivery of the notice of the outcome. Each party may respond in writing to any appeal submitted by the other party. Written responses must be

⁴ The time frame for filing an appeal 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.

submitted within three (3) business days following delivery of the notice of the written appeal. Written requests for appeal submitted by one party will be shared with the other party.

Appeals are reviewed by a designated Appellate Authority. For cases involving undergraduate Respondents, the Title IX Coordinator shall have the discretion to designate as the Appellate Authority an administrator with appropriate training to serve as an informed and impartial decision-maker. For cases involving graduate or professional student Respondents, the Appellate Authority shall be designated as follows:

- For M.S./PhD students, the Dean of the Guarini School of Graduate and Advanced Studies shall serve as the Appellate Authority.
- For all other graduate and professional students, the Dean of the relevant School shall serve as the Appellate Authority.

The Appellate Authority's responsibility will be strictly limited to determining if there was substantial procedural error that materially affected the outcome and/or new evidence not reasonably available at the time of the hearing. If either or both are found by the Appellate Authority, the appeal will be granted. If the appeal is denied, the matter is closed. The Appellate Authority will notify the parties in writing of its decision.

If the appeal is granted:

1. due to a substantial procedural error, the matter shall be heard by a new Hearing Panel or the Appellate Authority may remand the matter for further process to remedy the error (based on the nature of the procedural error);
2. due to the discovery of new evidence not reasonably available at the time of the initial hearing, the matter will be returned to the same Hearing Panel that originally heard the matter for reconsideration in light of the new evidence.

In the event of a reconsideration, the Appellate Authority will give the Hearing Panel instructions in writing regarding the nature and extent of its reconsideration. The Hearing Panel will act promptly to reconsider the matter consistent with those instructions. Following reconsideration, the finding of the Hearing Panel will be final and not subject to further appeal. The Hearing Panel will notify the parties in writing of the outcome.

D. The Effect of Withdrawal and Level of Participation

If a Complainant or Respondent chooses not to answer questions, participate in an investigation, or attend a hearing, 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.

At any time, Dartmouth may place an administrative hold on the Respondent's transcript, make a transcript notification, or defer or withhold the award of the Respondent's degree. Although a Respondent may withdraw from Dartmouth while the investigation is pending, this withdrawal may be considered permanent and the Respondent's transcript may note that there was a withdrawal pending a conduct investigation. If a Respondent withdraws 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 a Hearing Panel. 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. TIMEFRAME FOR COMPLETION OF INVESTIGATION AND DISCIPLINARY PROCESS

Dartmouth will seek to complete its investigation and disciplinary process, if any, in a prompt, fair, and impartial manner following the issuance of the notice of the investigation. This process contemplates reasonably prompt timeframes for the major stages of the investigation and resolution process, but Dartmouth may extend any timeframe in this policy for good cause, including extension beyond 60 days. 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 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.

Dartmouth's overarching goal is that all Complaints be investigated in a prompt, fair, and impartial manner. 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.