

Unified Disciplinary Procedures for Sexual Assault by Students and Student Organizations¹

I. Introduction; Statement of Policy.

Dartmouth College ("Dartmouth" or "the College") is firmly committed to maintaining an educational environment in which sexual and gender-based harassment and Sexual Assault (collectively, "sexual misconduct") are not tolerated, and in which persons reporting sexual misconduct are provided support and avenues of redress. When sexual misconduct is brought to the attention of the school, Dartmouth will take prompt and appropriate action to end the misconduct, prevent its recurrence, and address its effects.

In accordance with Title IX of the Education Amendments of 1972 (Title IX)², the federal law that prohibits discrimination on the basis of sex in federally funded educational programs and activities, this policy is designed to provide for the prompt, effective, fair, and impartial investigation and resolution of complaints against Dartmouth Students and Student Organizations (as defined below) of *Sexual Assault; Aiding, Abetting, or Inciting Sexual Assault; and Retaliation*. Procedures for the investigation and resolution of complaints of *sexual and gender-based harassment, domestic violence, dating violence, and stalking* against Students are addressed in the standards of conduct and disciplinary procedures for undergraduate students and graduate and professional students.

Students who engage in Sexual Assault; Aiding, Abetting, or Inciting Sexual Assault; or Retaliation (as defined below) are subject to disciplinary action up to and including permanent separation (i.e., expulsion). Retaliation constitutes an independent violation of this policy whether or not the underlying complaint of Sexual Assault or of Aiding, Abetting, or Inciting Sexual Assault is ultimately found to have merit.

As with other types of misconduct, student organizations may be held responsible for misconduct under this policy if the conditions for collective responsibility under the College's Group Accountability Statement are present.³

This policy will apply to all complaints of conduct regulated by this policy made by students, faculty, staff, or third parties, and will take precedence over any other Dartmouth policies and procedures with respect to such complaints.⁴

This policy and its procedures supplement, and do not replace, the criminal justice system. Furthermore, pursuant to a Memorandum of Understanding between the College and the Hanover Police Department, the College is required to report to the police department certain alleged crimes, including sexual assault. If the victim wishes to remain anonymous, their name and identifying

¹ Applicable to conduct occurring after June 18, 2014.

² 20 U.S.C. §1681 *et seq.*

³ <https://www.dartmouth.edu/~uja/account.html>

⁴ Complaints of sexual misconduct against faculty members are governed by the policies administered by the Office of Institutional Diversity and Equity <http://www.dartmouth.edu/~ide/policies/> and the *Agreement Concerning Academic Freedom, Tenure, and Responsibility of Faculty Members*. <http://www.dartmouth.edu/~dof/pdfs/ofdc.pdf> Complaints of sexual misconduct against staff members and third parties are governed by the policies administered by the Office of Institutional Diversity and Equity <http://www.dartmouth.edu/~ide/policies/> and the Office of Human Resources http://www.dartmouth.edu/~hrs/pdfs/Sexual_Harassment.pdf.

information will be withheld from the information provided to the police department. All persons have the right to pursue Sexual Assault complaints beyond the College, and are encouraged to use law enforcement agencies, including the Hanover Police Department as applicable, regardless of whether they choose to pursue recourse through this policy.

II. Notice of Non-Discrimination under Title IX.

Dartmouth College is committed to establishing and maintaining a safe and nondiscriminatory educational environment in which all individuals are treated with respect and dignity. The College does not discriminate on the basis of sex or gender in its educational, extracurricular, athletic, or other programs or in the context of employment. Sexual Assault and Retaliation are forms of sex and gender-based discrimination prohibited by Title IX, a federal law which provides that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

The College has appointed a Title IX Coordinator to oversee the investigation and resolution of all reports related to sexual and gender-based harassment, including Sexual Assault, and to assure the College's compliance with Title IX. More information about the role of the Title IX Coordinator can be found here: https://www.dartmouth.edu/~uja/title_nine_sexual_misconduct.html. As detailed in this policy, the Title IX Coordinator is available to meet with any person to provide information about resources, interim measures and options for investigation and resolution under this policy:

Until August 1, 2014:

Evelynn Ellis
Vice President for Institutional Diversity and Equity
Blunt Hall
Hinman Box 6018
Hanover, NH 03755
Evelynn.Ellis@dartmouth.edu
(603) 646-3146

Beginning August 1, 2014:

Heather Lindkvist
Title IX Coordinator/Clery Act Compliance Officer
Heather.Lindkvist@dartmouth.edu; or

Inquiries or complaints concerning the application of Title IX may be referred to the Title IX Coordinator and/or the United States Department of Education:

United States Department of Education
Office for Civil Rights, Region I
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Tel.: (617) 289-0111
Fax: (617) 289-0150
OCR.Boston@ed.gov

III. Definitions.

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

Any person – regardless of race, color, religion, sex, age, sexual orientation, gender identity or expression, national origin, disability, or military/veteran status – may be a Reporting Person. A Reporting Person need not be a Dartmouth student, faculty member, or staff member.

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

1. a Student accused of: Sexual Assault; Aiding, Abetting, or Inciting Sexual Assault; or Retaliation; or
2. a Student Organization accused of violating this policy under the College's Group Accountability Statement.

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

- I. **"Retaliation"** means engaging in conduct that may reasonably be perceived to (1) adversely affect a person's educational, living, or work environment because of their good faith participation in the reporting, investigation, and/or resolution of report of a violation of this policy; or (2) discourage a reasonable person from making a report or participating in an investigation under this policy. Retaliation includes but is not limited to: acts or words that constitute intimidation, threats or coercion intended to pressure a person to drop or support a complaint under this policy or to provide false or misleading information in connection with an investigation; and pressuring a person to participate or refrain from participating as a witness in an investigation under this policy. Retaliation may constitute a violation of this policy even when the underlying report made in good faith did not result in a finding of responsibility.
- J. **"Sexual Assault"** means unwanted or unwelcome touching of a sexual nature, including: fondling; penetration of the mouth, anus, or vagina, however slight, with a body part or object; or other sexual activity that occurs without valid Consent.
- K. **"Student"** means an individual enrolled as an undergraduate or graduate student in any Dartmouth College school or department, or a person enrolled in a Dartmouth College educational program, whether or not currently in attendance. Conduct by a Student in the course of the person's work as a Dartmouth employee is subject to this policy and may also form the basis for decisions concerning the individual's employment.
- L. **"Student Organization"** means a recognized Dartmouth student organization, group, or team including but not limited to those devoted to academic, athletic, cultural, Greek life, leadership, pre-professional or other student activities.

IV. Reporting Sexual Assault or Other Violations of This Policy.

The College strongly encourages the prompt reporting of violations of this policy to the College and the police. A report may be made by a Reporting Person or by any other person with knowledge of the violation.

A. Contacts for Reporting.

Reports of violations of this policy committed by Students and Student Organizations should be made to:

- Title IX Coordinator
 - Until August 1, 2014:**
 - Evelynn Ellis
 - Vice President for Institutional Diversity and Equity
 - Blunt Hall
 - Hinman Box 6018
 - Hanover, NH 03755
 - Evelynn.Ellis@dartmouth.edu
 - (603) 646-3146;
 - Beginning August 1, 2014:**
 - Heather Lindkvist
 - Title IX Coordinator/Clery Act Compliance Officer
 - Heather.Lindkvist@dartmouth.edu; or
- Department of Safety and Security
 - 5 Rope Ferry Road
 - Hanover, NH 03755
 - Safety.and.Security@Dartmouth.edu
 - (603) 646-4000; or
- Office of Judicial Affairs
 - Room 203
 - 5 Rope Ferry Road
 - Hanover, NH 03755
 - Undergraduate.Judicial.Affairs@dartmouth.edu
 - (603) 646-3482

Support resources may be found at: <http://www.dartmouth.edu/sexualassault/> The Title IX Coordinator and Department of Safety and Security can also take reports about any form of sexual misconduct that involves students, faculty, staff, or other members of the community.

B. Reports to Law Enforcement and External Agencies.

To initiate a criminal investigation or prosecution, reports of Sexual Assault should be made to:

- 911
- Hanover Police Department
603-643-2222 (non-emergency number)
- The police department for the town or city where the crime occurred.

The criminal process is separate from the Dartmouth student disciplinary process. A Reporting Person can pursue one or both options; for more information on the intersection of these processes, see Coordination with Concurrent Legal Proceedings (Section VI.D). The Title IX Coordinator, the Department of Safety and Security, the Director of Judicial Affairs, and the Sexual Assault Awareness Program will provide Reporting Persons with information

concerning their options and rights and will assist them in making reports to law enforcement.

C. Timeliness.

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

D. Preservation of Information and Tangible Material.

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

V. The College's Response Procedure.

Upon receipt of a report, the College will generally proceed as described below.

A. Support and Initial Assessment; Interim Measures.

Once the College is put on notice of possible Sexual Assault, the Reporting Person and the Responding Person will be offered appropriate support and other resources and notified of applicable policies. For a list of resources, see <http://www.dartmouth.edu/sexualassault/>. Both parties will be provided contacts for support, including confidential support. The College will also take appropriate steps to prevent and/or address retaliatory conduct following a report.

The College will also promptly conduct an Initial Assessment. At a minimum, the Initial Assessment will include taking the steps necessary to assure a safe and nondiscriminatory environment for the Reporting Person and other members of the community:

- Assess the nature and circumstances of the report.

- Address immediate physical safety and emotional well-being needs of the Reporting Person or any other individual.
- Notify the Reporting Person of the right to notify (or decline to notify) law enforcement if the conduct is potentially criminal in nature.
- Notify the Reporting Person of the right to seek medical treatment to address physical health and, as appropriate, preserve physical or forensic evidence.
- Assess the reported conduct to determine whether the circumstances pose a threat to the health or safety of the College community that warrant issuance of a "timely warning" under the Clery Act or a temporary administrative suspension.
- Provide the Reporting and Responding Persons with information about on- and off-campus resources, the range of interim measures, an explanation of the procedural options for resolution under the policy and the College's prohibition against retaliation.
- Enter non-identifying information about the report into the College's daily crime log if the conduct is potentially criminal in nature.

The College may also implement interim measures as may be appropriate for the individuals or organizations involved and for the larger College community. Interim measures may include but are not limited to: separation of the Reporting Person's and Responding Person's academic and living situations; temporary administrative suspension of the Responding Person or organization; no-contact orders; and restrictions on team or organization participation or activity.

The scope and timing of further investigation and/or action will depend upon a number of factors including: whether the Reporting Person requests confidentiality or that the investigation not be pursued; whether the Reporting Person wishes to make a disciplinary complaint under this policy; whether the College has an obligation to proceed with an investigation, regardless of the Reporting Person's wishes, in order to ensure campus safety; and whether ongoing fact-gathering by the police requires a temporary delay in further factual investigation by the College.

B. Disciplinary Process.

Disciplinary proceedings under this policy may be initiated:

- By the Reporting Person; and/or
- By the Dean of the College or the Dean's designee (with respect to possible violations of this policy by undergraduate Students) or the Dean of the involved graduate or professional school or that Dean's designee (with respect to possible violations by graduate or professional school Students); and/or

- In the case of violation of this policy by a Student Organization, by the Dean or associate dean responsible for student affairs of the school or division with which the organization is affiliated.

The complaint should be submitted to the Title IX Coordinator, the Department of Safety and Security, or the Office of Judicial Affairs. If the complaint is received by the Department of Safety and Security or the Office of Judicial Affairs, they will promptly notify the Title IX Coordinator.

1. *Disciplinary Investigation.*

- (a) Upon being notified that one of the above persons wishes to pursue a complaint of violation of this policy, the Title IX Coordinator, in consultation with the Director of Judicial Affairs, will review the complaint to determine whether the allegations, if proven, would constitute a violation of this policy. This evaluation will normally occur within five working days of the initial report.
- (b) If it is determined that the allegations would not constitute a violation of this policy, the Reporting Person will be advised of other disciplinary, legal and support options as appropriate, and no further investigation under this policy will be pursued. If new information is subsequently provided, this decision may be reevaluated.
- (c) If it is determined that the allegations would constitute a violation of this policy, the Title IX Coordinator will ask the Director of Judicial Affairs to prepare the charge describing the alleged violation and the provisions of this policy alleged to have been violated, and to designate an Investigator to conduct an investigation and prepare a report. A single investigator will ordinarily be assigned to each case. Investigators will be selected from a group of qualified and trained individuals engaged by the College for the purpose of conducting investigations under this policy.
- (d) For complaints of Retaliation or of Aiding, Abetting, or Inciting Sexual Assault, the Title IX Coordinator may exercise discretion to refer the matter to the otherwise applicable disciplinary process for the Responding Person in lieu of this procedure.
- (e) If, prior to or during the investigation of a complaint under this policy, either party alleges a violation of other College policies or standards of conduct arising from the same set of facts, all claims will ordinarily be investigated and have responsibility determined by the Investigator assigned to investigate the complaint under this policy, with the sanction for any finding of responsibility for claims other than those under this policy determined by the disciplinary system of the Responding Person's school. However, the Title IX Coordinator, in consultation with the Director of Judicial Affairs, has

discretion to determine that the claims other than those under this policy should be referred in their entirety to the disciplinary system of the Responding Person's school.

- (f) Upon initiating the investigation, the Director of Judicial Affairs will send the Reporting Person and the Responding Person a notice of investigation which will include: a copy of the charge; the name and contact information of the Investigator; and a copy of this policy. The Director of Judicial Affairs will also inform both parties of Dartmouth's policy which prohibits Retaliation.
- (g) The investigation will be conducted in a prompt, fair, thorough, and impartial manner by a person who has specialized training in conducting Sexual Assault investigations. It will include, at a minimum, speaking separately with the Reporting Person, the Responding Person and pertinent witnesses, and soliciting and reviewing documentation relevant to the investigation including available police reports. The Investigator will provide the Reporting and Responding Persons with timely notice of meetings at which they are asked to be present. The Reporting and Responding Persons will not be permitted to directly question each other and will not be required to be present together at any point. Each party may have an advisor and/or an observer present with them at all meetings concerning the investigation.
- (h) All parties and witnesses are obligated to be completely honest during the course of the investigation. Any person who knowingly makes a false statement in connection with the investigation may be subject to College disciplinary action. False statements include statements that omit a material fact, as well as statements that the speaker knows to be untrue.
- (i) The Investigator may establish reasonable timeframes for the submission of information and the identification of potential witnesses by the Reporting Person and the Responding Person (i) prior to the preparation of the Investigator's factual findings and (ii) following the submission of the draft factual findings to the Reporting Person and the Responding Person for their review. A reasonable time frame for such responses is generally defined as five calendar days.
- (j) The Investigator may record by electronic, stenographic, or other means any meeting, to the extent permitted by law. If a recording has been made, the Reporting and Responding Persons may request permission to listen to the recording at the conclusion of the investigation. The Director of Judicial Affairs will determine the conditions under which persons will have access to the recording in order to preserve confidentiality. Persons who fail to abide by the Director's restrictions may be subject to further disciplinary action. Except as provided above, no photographs, tape recordings,

videotapes, stenographic records, or other recordings of proceedings under this policy may be made.

2. *Standard of Proof.*

All findings and determinations of responsibility under this policy will be made using a preponderance of the evidence standard. With respect to any factual issue, this standard requires the determination of whether it is more likely than not that a fact exists or an event or violation of this policy occurred.

3. *Investigation Findings and Report.*

The Investigator will prepare a written report at the conclusion of the investigation. Before the report is finalized, the Investigator will give the Reporting Person and the Responding Person an opportunity to review a draft of the factual findings of the report and submit comments in writing. The Investigator will then make any modifications to the draft report that the Investigator, in their judgment, deems appropriate, and finalize the report.

The Investigator's final written report will set forth, at a minimum:

- (a) The Investigator's factual findings;
- (b) The Investigator's determination as to whether the Responding Person committed the misconduct alleged in the charge;
- (c) Where the Investigator has found that the Responding Person committed Sexual Assault against the Reporting Person, the Investigator's factual findings with regard to each of the factors relevant to sanctioning set forth in Section V.B.4(i)(1) and (2); and
- (d) The Investigator's rationale for the findings.

The Investigator will transmit the report to the Director of Judicial Affairs. The Director will promptly notify the parties, simultaneously and in writing, of the Investigator's determination of responsibility and the process for requesting review of the decision. If the Investigator has found the Responding Person responsible for misconduct, the Director will also inform the parties of the sanctioning procedure, including the time frame for the submission of statements to the Sanctioning Panel.

4. *Sanctioning Decision.*

If the Investigator has found the Responding Person responsible for misconduct under this policy, the Director of Judicial Affairs will promptly convene a Sanctioning Panel consisting of:

- *For findings of responsibility against individuals:*
 - the Director of Judicial Affairs;

- a dean responsible for student affairs designated by the Dean of the College (where the Responding Person is an undergraduate) or the Dean of the Responding Person's school (where the Responding Person is a graduate or professional school student); and
 - a tenured or tenure-track faculty member of any school holding an appointment outside the Reporting and Responding Persons' declared majors or areas of concentration, if any.
- *For findings of responsibility against Student Organizations under the Group Accountability statement:*
 - the Director of Judicial Affairs;
 - the associate dean responsible for student affairs designated by Dean of the College (where the organization is an undergraduate organization) or the Dean of the graduate school with which the organization is affiliated (where the organization is affiliated with a graduate or professional school); and
 - a tenured or tenure-track faculty member. Priority shall be given to faculty members holding appointments in schools other than those with which the organization is affiliated; provided that if such a faculty member is unavailable to serve, the Director of Judicial Affairs may appoint a faculty member holding an appointment in the school with which the organization is affiliated.

The Reporting and Responding Persons may each submit a statement of position to the Sanctioning Panel by providing a copy to the Director of Judicial Affairs within five (5) calendar days after the Director has notified them of the Investigator's determination of responsibility.

Within ten (10) business days of the Investigator's determination of responsibility, the Sanctioning Panel will determine the appropriate sanction, taking into account the considerations set forth below, and prepare a written statement of the rationale for the sanction determined. Sanctions may include but are not limited to one or more of the following: separation (i.e., expulsion); suspension; College or social probation; reprimand; warning; fine; restitution; educational/counseling requirement; ; no-contact order; restriction from specific College programs or activities; housing restriction/relocation; restriction from College employment; loss of College recognition; organizational removal from College-owned housing; or loss of organizational insurance coverage.

In determining an appropriate sanction, the Sanctioning Panel will take into account the following considerations:

- (a) The impact of the misconduct on the Reporting Person or the community; protection of the College community.
- (b) The Responding Person's disciplinary (and, if known, criminal) history.
- (c) The nature and circumstances of the misconduct.
- (d) How the College has sanctioned similar misconduct in the past.
- (e) The enrollment pattern of the Reporting Person, giving due regard to the principle that the a Student found responsible for misconduct under this policy should bear the burden of accommodating the Reporting Person and not the reverse, and the risk that a Reporting Person's encounters with the Responding Person may create a hostile and intimidating environment for the Reporting Person.
- (f) The presence or absence of bias on account of race, color, religion, sex, age, sexual orientation, gender identity or expression, national origin, disability, or military/veteran status as a motivation in the misconduct.
- (g) The Responding Person's candor in responding to the complaint.
- (h) Any other mitigating or aggravating circumstances in order to reach a just and appropriate resolution in each case.
- (i) (1) The sanction shall be separation from the College (i.e., expulsion) where:
 - the Investigator has determined that the Responding Person, by use of physical force, threat, or Intentional Incapacitation of the Reporting Person, 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 Investigator has determined that the Responding Person 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 Responding Person has previously been found responsible for Sexual Assault.
- (2) In cases not covered by paragraph (i)(1), where the Investigator has determined that the Responding Person intentionally engaged in any form of sexual penetration or oral-genital, oral-anal, or genital-genital contact, as described above, there is a strong presumption that the sanction will be separation from the College.

The Sanctioning Panel will also identify permanent remedies to address the effects of the conduct on the Reporting Person, restore the Reporting Person's safety and well-being, and maximize the Reporting Person's educational and employment opportunities. Such remedies should restore to the Reporting Person to the extent possible all benefits and opportunities lost as a result of the prohibited conduct. Permanent remedies may include extending or making permanent any interim measures.

5. *Notification of Investigation Outcome.*

The Director of Judicial Affairs will inform the Reporting Person and the Responding Person simultaneously and in writing of (a) the result of the disciplinary proceeding, including the sanction, if any; (b) the rationale for the result; and (c) the procedures for the Reporting Person and the Responding Person to request review of the result of the proceeding. The Director of Judicial Affairs will also inform the Title IX Coordinator and other College officials with a legitimate educational interest. Ordinarily, these persons will include:

- *For complaints against undergraduates:* Dean of the College; Student's Undergraduate Dean; Dean of the Faculty of Arts and Sciences; and Student's parent(s) or guardian(s).
- *For complaints against graduate or professional school students:* Dean of the school in which the Responding Person is enrolled.
- *For complaints against Student Organizations:* Dean(s) and associate dean(s) responsible for student affairs of the school(s) with which the organization is affiliated.
- *For complaints against Non-U.S. Citizens/non-Permanent Residents:* Director of the Office of Visa and Immigration Services.
- *For complaints against members of Varsity Athletic Teams:* Director of Athletics and Recreation.

In the event of a request for review, the Director of Judicial Affairs will provide notice of the result of the review to the same persons.

6. *Review of Decision.*

- (a) Either the Reporting Person or the Responding Person may, within seven (7) calendar days of receiving notice of the decision, request review of the decision by submitting to the Director of Judicial Affairs, with a copy to the Title IX Coordinator, a letter stating why the party requesting review believes the finding of responsibility or the sanction should be set aside. A party may only request review on the following grounds:
- That the Investigator or the Sanctioning Panel committed procedural error which materially prejudiced the party requesting review's case;

- That the Investigator's findings or the Sanctioning Panel's decision should be reconsidered because of newly discovered information which was not reasonably available to the party requesting review during the investigation and which would likely have affected either the finding of responsibility or the sanction imposed had it been available; or
- That the sanction imposed is excessive, insufficient, or inappropriate.

A request for review must set forth in reasonable detail the grounds for review, and must have attached to it all materials that the party requesting review wishes to have considered. The Director of Judicial Affairs will provide a copy of the request for review to the other party.

- (b) The Provost will designate a College official ("Reviewing Official") to consider each request for review. The Reviewing Official will decide in their sole discretion whether the request states one of the allowable grounds for review. If the Reviewing Official decides that the request states an allowable ground for review, they will notify the parties that the request will be considered and invite the other party to submit, within seven (7) calendar days, a statement and supporting materials in response to the submission of the party requesting review.
- (c) The Reviewing Official will consult with the Dean of the Responding Person's school concerning the request for review. If the Reporting Person is a Student, the Reviewing Official will also consult with the Dean of the Reporting Person's school. The Reviewing Official may also consult with the General Counsel, the Investigator, and the Director of Judicial Affairs, and with the Sanctioning Panel with respect to requests to review the sanction.
- (d) The College reserves the right, pending the review, to direct that a Student found responsible for violation of this policy, and for whom the sanction of suspension or separation has been imposed, be required to leave campus during the time the review is pending. This decision will be made by the Dean of the College (in the case of undergraduate Students) or the Dean of the involved graduate or professional school (in the case of graduate or professional school Students).
- (e) The Reviewing Official may affirm the Investigator's or Sanctioning Panel's findings, reverse and remand the matter for further consideration, or refer the matter to a different Investigator for further consideration. If the matter is remanded to the Investigator or the Sanctioning Panel or referred to a different Investigator, the Reviewing Official will provide corrective

instructions with the remand/referral. The Reviewing Official's decision will be in writing and, except in the case of a remand/referral, is final.

- (f) In the event of a remand or referral, the original or new Investigator, or the Sanctioning Panel, as the case may be, may conduct such further proceedings as they deem appropriate under the circumstances, consistent with this policy. Review of decisions on remand may be requested by either party under the above procedure.

C. Timeframe for Completion of Investigation and Disciplinary Process.

The College will ordinarily complete its investigation and disciplinary process, if any, within sixty (60) calendar days.

VI. Student and Student Organization Expectations and Rights.

A. Confidentiality; Respect for Privacy.

Information regarding investigations conducted as part of the disciplinary process, including sanctioning determinations, will be shared among College officials with a legitimate educational interest or with external individuals or entities only on a need-to-know basis and only as permitted by College policy and applicable law. The College may choose to comment publicly, in writing or otherwise, to the extent permitted by law, regarding the decision reached if, in the judgment of the College, the best interests of the community would be served by such a disclosure. If possible and appropriate, the anonymity of the student(s) involved will be protected.

B. Training of Officials Conducting Proceedings.

All persons involved in implementing this policy will receive annual training on the issues related to Sexual Assault and how to conduct an investigation and review process that is prompt, effective, fair, and impartial.

C. Protection from Retaliation.

The College will take appropriate steps to ensure that a person who in good faith reports or participates in an investigation under this policy will not be subjected to Retaliation by the Responding Person or others. Anyone who believes that they are experiencing Retaliation is strongly encouraged to report that concern using the procedure for the reporting violations of this policy.

D. Coordination with Concurrent Legal Proceedings.

Persons may report to law enforcement and/or engage in civil litigation in connection with the same behavior that forms the basis of a report under this policy. Where a Reporting Person or another person with knowledge of possible violation of this policy has reported to law enforcement, the College will fulfill its responsibility to take prompt and appropriate

action to provide protection and resources to the Reporting Person. The College will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation and may need to delay temporarily an investigation under this policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed its gathering of evidence, the College will resume and complete its investigation. If the Reporting Person wishes to pursue disciplinary charges under this policy while criminal proceedings are pending, or if the College determines that disciplinary proceedings should proceed, the College will not wait for the conclusion of the criminal case to proceed with the disciplinary process. If the College finds that Sexual Assault occurred, it will take effective steps to end it, prevent its recurrence, and address its effects, regardless of whether external legal proceedings are pending.

E. Advisors and Support Persons; Attorneys.

Both Reporting Persons and Responding Persons are entitled to have a single advisor and/or observer of their choice accompany them at any meeting related to the investigation.

Advisors/observers may not actively participate in the case by answering questions or otherwise presenting on behalf of the parties. They may advise the parties privately but may not confer with them while the meeting is in progress, and will be subject to the same confidentiality expectations applicable to others in attendance.

The Investigator may remove any person who distracts or disrupts the process.

F. Conflict of Interest.

Any persons exercising authority under this policy who believe they may be unable to exercise that authority impartially in any case shall excuse themselves from the matter and will be replaced with another person. If the Reporting or Responding Person believes a person exercising authority under this policy has a personal, professional, or financial involvement with the Reporting or Responding Person that would prevent the person from exercising their authority impartially, they may make a prompt objection to the Title IX Coordinator. If the Title IX Coordinator determines that the objection is reasonable, the challenged person will be replaced with another person. Because Dartmouth is a small community, knowledge of or acquaintance with the student(s) and/or witnesses in a matter, awareness of a matter, participation as a consequence of one's official role in events surrounding a matter, and/or participation in the investigation process prior to the formal disciplinary process, will not automatically be grounds for disqualification. The decision of the Title IX Coordinator regarding a challenge will be final.

G. Timeframes.

All timeframes set forth in this policy may be extended by the Director of Judicial Affairs for good cause, with written notice to the Reporting and Responding Persons of the delay and the reason for the delay.

VII. Other Matters.

To prevent delays, when positions authorized to exercise responsibility under this policy are vacant, or during the unavailability of persons holding those positions, the Provost may designate other persons to exercise their authority under this policy.

June 18, 2014