

Bates College

Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy

Fall 2023

I. Overview: Institutional Values and Community Principles

Bates College values the diversity of persons, perspectives, and convictions. Critical thinking, rigorous analysis, and open discussion of a full range of ideas lie at the heart of the college's mission as an institution of higher learning. The college seeks to encourage inquiry and reasoned dialogue in a climate of mutual respect. The application of the Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy strives to ensure that we uphold our institutional values and community principles in order to maintain a community free from the harmful consequences of all forms of harassment.¹ Bias, harassment, discrimination, and sexual misconduct threaten our ability to thrive personally, academically, and professionally at Bates by violating a person's rights, dignity, and integrity.² Quite simply, these behaviors run counter to our community principles and the mission of the college.

Bates College is committed to providing a non-discriminatory and harassment-free educational, living and working environment for all members of the Bates community, including students, faculty, administrators, staff, contractors, and visitors. The college maintains policies that promote a community characterized by trust, mutual respect, and responsibility where all can feel secure and free from bias and discrimination in the classroom; social, recreational, and residential environments; and the workplace. All members of the community are expected to adhere to the requirements of the law and this policy, and to the standards of the college community.

The purpose of this policy is to provide the Bates College community with a clearly articulated set of behavioral standards, common understandings of definitions and key concepts, and descriptions and examples of prohibited conduct, including all forms of discrimination, harassment, sexual violence, stalking, and domestic and dating violence. The policy applies to all community members, including students, faculty, staff, contractors, and visitors and is intended to guide students, faculty, and staff who have been affected by harassment or other

¹ These categories include: race, color, ancestry, national or ethnic origin, religion, sex, sexual orientation, gender identity, gender expression, primary or native language, marital status, parental status, age, physical or mental disability, genetic information, veteran status, citizenship status, and HIV status. Whenever they are used in this policy the terms bias, harassment, and discrimination connote all forms of bias, harassment, and discrimination based on any of these protected classes. The terms, therefore, refer specifically to all forms of racism, sexual harassment (including sexual violence), homophobia, transphobia, ableism, ageism, xenophobia, etc.

² Throughout this policy, the bias, harassment, and discrimination will often be used to capture the entire range of prohibited behavior under this policy. When these terms appear, it should be assumed that all forms of racism, sexism, homophobia, transphobia, ageism, and ableism are included.

prohibited behavior, whether as someone who has been the target of such behavior, someone accused of violating this policy, or a third party.

This policy, as set forth, reaffirms Bates' institutional values, defines community expectations, provides recourse for those individuals whose rights have been violated, and provides for fair and equitable procedures for determining when this policy has been violated. The college is committed to fostering a climate free from bias, racism, discrimination, harassment, and sexual misconduct through clear and effective policies; a well-coordinated and integrated education and prevention program; and prompt and equitable procedures for the informal and formal resolution of reports. The policy provides individuals reporting potential violations with a spectrum of resolution options, including the option to simply receive supportive measures.

This policy prohibits all forms of harassment, discrimination, and sexual misconduct, including discrimination and harassment based upon any protected class, sexual violence, stalking, and all forms of intimate partner violence. The college is dedicated to addressing cases of harassment promptly, while supporting all parties involved. Any individual who is found to have violated this policy may face disciplinary sanctions up to and including dismissal from the college or termination of employment.

Bates strongly encourages the prompt reporting of any incident of discrimination, harassment, or sexual misconduct to the college. Upon receipt of a report and in consultation with the individual reporting the incident, the college will take prompt and effective action by: providing support for individuals who make a report or who seek assistance under this policy; conducting a review of the conduct; addressing the safety of individuals and the campus community; and as warranted, pursuing resolution through informal administrative action or formal disciplinary action against an individual accused of violating this policy. This policy outlines specific procedures for the investigation and resolution for all formal complaints.

All Bates community members are strongly encouraged to report information regarding any incident of bias, discrimination, harassment, or sexual misconduct, regardless of whether they wish to pursue a formal complaint. The college is committed to providing programs, activities, and an educational and work environment free from all forms of discrimination, but the college cannot take appropriate action without information about incidents when they occur. By collecting this information about the lived experience of our students, staff, and faculty, we can develop appropriate programming to educate all campus constituencies about effective anti-bias strategies and actions. Through this education, we can achieve our institutional mission, foster a community built on trust and mutual respect, and better protect the health, safety, and welfare of all members of the Bates community.

The college expects all members of our community to participate in the process of creating a safe, welcoming, and respectful environment on campus. In particular, the college expects that Bates community members will take reasonable and prudent actions to prevent or stop an act of bias, discrimination, harassment, or sexual misconduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of other individuals, contacting Campus Safety or law enforcement, or seeking assistance from a person in authority. Community

members who choose to take these actions will be supported by the college and protected from retaliation.

Retaliation, in any way, shape, or form, against any person or group who makes a good faith report, cooperates with an investigation, or participates in a grievance procedure is a violation of college policy. Retaliation should be reported promptly to the Associate Vice President for Title IX and Civil Rights Compliance/Title IX Coordinator for investigation, which may result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of discrimination and/or harassment.

Discrimination, harassment, and sexual violence also violate federal and state civil rights laws and may be subject to criminal prosecution in addition to action taken by the college. Because behavior that violates this policy may also be a violation of law, any individual who has been subjected to harassment or sexual violence is also encouraged to report to local law enforcement and to consider criminal or civil legal options. An individual may also file a complaint with the U.S. Department of Education's Office for Civil Rights, the Equal Employment Opportunity Commission, and/or the Maine Human Rights Commission.

This policy is in compliance with the federal 2020 Title IX Regulations regarding the handling of sexual harassment, as well as other Department of Education Office of Civil Rights regulations and guidance regarding Title IX and/or the handling of other civil rights and equity matters.

These policy and procedures supersede any previous policy(ies) addressing harassment, discrimination, sexual misconduct, and/or retaliation. The Associate Vice President for Title IX and Civil Rights Compliance/Title IX Coordinator will review this policy on an annual basis in order to attend to evolving legal requirements and improve the institutional response, including support services and resources and resolution procedures. Further, this policy may be amended, in writing, by the President or their designee at any time in consultation with the Associate Vice President for Title IX and Civil Rights Compliance. All changes will be posted online and take effect immediately upon posting.

II. Scope of Policy

Bates College denounces bias against, harassment of, and discrimination against any and all individuals or groups. All Bates community members, including students, employees, and volunteers, as well as independent contractors, and visitors, are responsible for understanding and complying with this policy.³ The college will provide supportive measures as described in this policy to assist individuals in accessing the college's educational program.

This policy provides community members with the structure and guidance to assist those who have been affected by discrimination, harassment, sexual misconduct, or other civil rights violations, whether as a Complainant, a Respondent, or a third party, and to provide fair and equitable procedures for investigation and resolution of reports.

When used in this policy and in alignment with the 2020 federal Title IX regulations, "Complainant" refers to an individual who is a target, victim, or survivor of any alleged conduct prohibited by this policy. "Respondent" refers to an individual who has been accused of prohibited conduct under this policy. "Third party" refers to any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else.

All Bates community members are responsible for their actions and behavior, and are required to follow college policies and local, state, and federal law. This policy applies to conduct occurring on property owned or controlled by Bates College⁴ or at college-sanctioned events or programs that take place off campus, including, but not limited to, study away, internship programs, community-engaged learning, and athletics events. In situations in which both the Complainant and Respondent are members of the Bates College community, this policy may apply regardless of the location of the incident. Upon receiving a report, the Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator (hereafter "Title IX Coordinator") will assess whether the conduct occurred in the context of the college's educational program and whether it has continuing effects on the Bates community. In addition, off-campus or online conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the Bates College community or Bates College is covered under this policy.

A Complainant is encouraged to report misconduct to the college regardless of where the incident occurred, or who committed it. The college has jurisdiction to take disciplinary action against a Respondent who is a current student or employee. Even if the college does not have jurisdiction over the Respondent, however, the college will take prompt action to provide for the

³ For the purposes of the policy, Bates defines "student" as any student who is enrolled in academic coursework, has not fulfilled their degree requirements, and has a continuing relationship with the college. "Employee" refers to all faculty and staff, including members of the administration and instructional staff.

⁴ This provision includes property owned or controlled by recognized student organizations.

safety and well-being of the Complainant and the broader campus community using all available resources. The Title IX Coordinator may be able to assist and/or advocate for a student or employee who experiences discrimination or harassment in an internship, study abroad program, or other external program where policies and procedures of the host organization may give recourse to the Complainant. When criminal conduct is alleged, the Title IX Coordinator will assist the complainant in contacting local law enforcement if the individual would like to file a police report.

This policy provides specific procedures for the resolution of all reports under which the college has jurisdiction. In determining how the college will resolve a report, the Title IX Coordinator strongly considers the preference of the Complainant. Depending on the nature of the allegations, formal complaints will be resolved using either Process A or B outlined in this policy or the procedures outlined in the Employee or Faculty Handbook, as appropriate. The Title IX Coordinator is vested with the authority to determine which process is used.

III. Notice of Non-Discrimination

- A. Policy on Accommodation of Disabilities
- B. Policy on Accommodation of Pregnancy
- C. Role of Associate Vice President Title IX & Civil Rights Compliance/Title IX Coordinator
- D. Roles of Title IX Team & Civil Rights Resolution Team
- E. Contact Information

Bates College is committed to principle of equal opportunity and to providing an educational and work environment free from any discrimination against, harassment of, or retaliation against any member of the college community on the basis of actual or perceived race, color, ancestry, national or ethnic origin, religion, sex, sexual orientation, gender identity, gender expression, primary or native language, marital status, parental status, age, physical or mental disability, genetic information, veteran status, citizenship status, HIV status, and other legally protected statuses in the recruitment and admission of its students, in the administration of its education policies and programs, or in the recruitment and terms and conditions of employment of its faculty and staff. Bates College shall adhere to all applicable state and federal equal opportunity laws and regulations.

The college is dedicated to ensuring access, fairness, and equity for all persons in its educational programs, related activities, and employment, including those groups who have faced historical barriers to full and fair integration and participation. When brought to the attention of the college, Bates will take corrective action necessary to stop, prevent, and remedy discriminatory, harassing, and retaliatory behavior following the processes and procedures described in this policy. In addition, the college maintains a continuing commitment to identify and eliminate discriminatory practices in every phase of college operations.

A. Policy on Accommodation of Disabilities

Bates is committed to ensuring full access to its educational programs and activities for students and employees with disabilities. In compliance with the Americans With Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and the Maine Human Rights Act (MHRA), as well as other federal and state laws and regulations pertaining to individuals with disabilities, the college will work collaboratively to make reasonable accommodations for individuals with documented disabilities. All accommodations are made on an individual basis.

Students seeking accommodations should contact the [Office of Accessible Education and Student Support](#), which coordinates services and support for students, to initiate the process. Employees who wish to request accommodations should contact the [Human Resources Office](#).

The college is committed to providing reasonable accommodations and support to qualified individuals to ensure equal access to the reporting and resolution process. Any person needing accommodations to assist them in reporting alleged violations, seeking support, or to ensure full

access to the resolution process should notify the Title IX Coordinator, the Director of Accessible Education, or the Human Resources Office.

B. Policy on Accommodation of Pregnancy

Bates is committed to ensuring the protection and equal treatment of pregnant individuals, people with pregnancy-related conditions, and new parents. In compliance with Title IX, the Americans With Disabilities Act (ADA), the Pregnancy Discrimination Act, the Maine Act to Protect Pregnant Workers, and the Maine Human Rights Act (MHRA), as well as other federal and state laws and regulations pertaining to pregnancy, the college will work collaboratively to make reasonable accommodations for individuals who are pregnant or experiencing pregnancy-related conditions. All accommodations are made on an individual basis.

Students seeking accommodations may contact the Title IX Coordinator, the Associate Director of Health Services for Student Support, or [Office of Accessible Education and Student Support](#) to initiate the process. Employees who wish to request accommodations should contact the [Human Resources Office](#).

C. Role of Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator

The President of Bates College has designated Gwen Lexow, Associate Vice President for Title IX & Civil Rights Compliance, to serve as the college's Title IX Coordinator (hereafter, "Title IX Coordinator"). The Title IX Coordinator oversees the college's compliance with all civil rights laws, including Title IX, and the implementation of its policies on equal opportunity, non-discrimination, and anti-harassment. As the leader of the Title IX Team, the Title IX Coordinator has the primary responsibility for the college's centralized review, investigation, and resolution of reports of bias, discrimination, harassment, sexual harassment, retaliation, and other civil rights violations.

Trained in college policies and procedures and relevant state and federal laws, the Title IX Coordinator is available to meet with any community member who wishes to report a potential violation of this policy or desires more information about this policy, support resources, possible resolution options, or other courses of action at the college and in the community.

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest.

D. Roles of the Title IX Team and Civil Rights Resolution Team

The Title IX Coordinator is assisted by Deputy Title IX Coordinators in athletics, student affairs, human resources, and the dean of faculty offices. These Deputy Title IX Coordinators have a shared responsibility for supporting the Title IX Coordinator and are accessible to any member of the community for consultation and guidance.

The Civil Rights Resolution Team works in conjunction with the Title IX Team and includes individuals involved in the resolution of reports, such as advisors, investigators, hearing officers, and appellate officers. Any individual involved in the resolution of complaints under this policy

receives specific training designed to assist them with the execution of their role in the resolution process.

All members of the Title IX Team and Civil Rights Resolution Team are vetted and trained to ensure that they are not biased for or against any party in a specific case, or for or against Complainants or Respondents generally. Any concerns regarding bias or potential conflict of interest of a Title IX or Civil Rights Resolution team member should be brought to the attention of the Title IX Coordinator. Any concerns regarding the Title IX Coordinator should be brought to the attention of the President (president@bates.edu or 207-786-6100).

D. Contact Information

Reports of potential policy violations or inquiries or complaints concerning the application of this policy may be referred to the Title IX Coordinator or any Deputy Title IX Coordinator.

Associate Vice President for Title IX and Civil Rights Compliance/Title IX Coordinator

Gwen Lexow

Lane Hall 202-A | 207-786-6445 | glexow@bates.edu or titleix@bates.edu
www.bates.edu/here-to-help

Deputy Title IX Coordinator for Athletics

Celine Cunningham, Deputy Director of Athletics & Senior Woman Administrator
Alumni Gym | 207-786-6342 | cunning@bates.edu

Deputy Title IX Coordinator for Faculty

Don Dearborn, Associate Dean of Faculty and Professor of Biology
Lane Hall 120 | 207-786-6107 | ddearbor@bates.edu

Deputy Title IX Coordinators for Staff and Visitors

Hope Burnell, Assistant Vice President for Human Resources and Environmental Health & Safety
215 College Street | 207-786-8388 | hburnell@bates.edu

Patty Rooney, Human Resources Director

215 College Street | 207-753-6935 | prooney@bates.edu

Deputy Title IX Coordinator for Students

Andee Bucciarelli, Associate Director of Residence Life for Health Education
Chase Hall, Room 001E | 207-786-6215 | abucciar@bates.edu

Inquiries may also be directed to the following government agencies:

Office for Civil Rights, U.S. Department of Education

400 Maryland Avenue, SW, Washington, DC 20202-1100
800-421-3481 | TTY: 800-877-8339 | OCR@ed.gov

www.ed.gov/ocr

Office for Civil Rights, U.S. Department of Education -- Boston Office

5 Post Office Square, 8th Floor, Boston, MA 02109-3921

617-289-0111 | ocr.boston@ed.gov

Maine Human Rights Commission

#51 State House Station, 19 Union Street, Augusta, ME 04333

207-624-6290 | TTY: Maine Relay 711 | Request@mhrc.maine.gov

www.maine.gov/mhrc/

Employees may also contact:

United States Equal Employment Opportunity Commission

131 M Street, NE, Washington, DC 20507

800-669-4000 | TTY: 800-669-6820 | ASL Video: 844-234-5122 | info@eeoc.gov

www.eeoc.org

United States Equal Employment Opportunity Commission -- Boston Office

JFK Federal Building, 15 New Sudbury Street, Room 475, Boston, MA 02203-0506

800-669-4000 | TTY: 800-669-6820 | ASL Video: 844-234-5122

Individuals who participate in activities funded by federal grants (such as NASA, National Institutes of Health [NIH], Department of Justice, etc.) may also report concerns directly to the funding agency.

IV. Privacy and Confidentiality

- A. Privacy
- B. Confidentiality
- C. Reporting Responsibilities of Employees
- D. Reporting Responsibilities Regarding Minors
- E. Request for Confidentiality
- F. Timely Warning
- G. Release of Information
- H. Student-Athletes and NCAA Information-Sharing Requirements
- I. Recording of Resolution Proceedings
- J. Maintenance of Records

Bates College is committed to protecting the privacy of all individuals involved in any report under this policy. All college employees who are involved in the college's response, including investigators and hearing officers, receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report. Such a review is essential to protecting the safety of the Complainant, the Respondent, and the broader campus community and to maintaining an environment free from discrimination and harassment.

The privacy of student educational records will be protected in accordance with the [Family Educational Rights and Privacy Act \(FERPA\)](#), as outlined on the [Bates Registrar's webpage](#). The use of employee records is governed by Human Resources policies outlined in the [Employee Handbook](#), as well as federal and state law. The disclosure of private information contained in medical records is protected by the [Health Insurance Portability and Accountability Act \(HIPAA\)](#).

Privacy and confidentiality have distinct meanings under this policy.

A. Privacy

Privacy means that information related to a report made under this policy will only be shared with a limited group of individuals who "need to know" in order to assist in the active review, investigation, or resolution of the report; and the information shared will be limited to the bare minimum necessary. While not bound by confidentiality, these individuals will be discreet, and respect and safeguard the privacy of all individuals involved in the process.

The college reserves the right to contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk. Typically, the college will consult with the student prior to doing so.

Individuals participating in the resolution of a complaint, including the Complainant, the Respondent, all Advisors, and all Witnesses are expected to maintain the privacy of the resolution process. While there is an expectation of privacy around what the Title IX

Coordinator, Title IX Team, other college officials involved in the resolution process, and Advisors may share with third parties, the Complainant and Respondent have discretion to share their own knowledge with others if they so choose. The college encourages the parties to discuss the potential impact of these disclosures with their Advisors, prior to doing so.

B. Confidentiality

Confidentiality exists in the context of certain protected relationships, particularly among those who provide services such as medical care, mental health counseling and care, legal advice, and pastoral care. Information shared by an individual with designated on-campus confidential employees cannot be revealed to any third party without the express permission of the individual. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others or as otherwise required by law.

C. Reporting Responsibilities of Employees

College employees responsible for student welfare and all supervisors who are not specifically designated as confidential resources under this policy are required to share with the Title IX Coordinator all knowledge of discrimination, harassment, and/or retaliation witnessed or shared with them in the course of their employment. This includes: faculty; coaches; administrators; Campus Safety staff; student and professional residence life staff; and other employees with a responsibility for student welfare.

This notification should be done promptly. While individuals must share all known details with the Title IX Coordinator, care should be taken to maintain the Complainant's privacy as much as possible. Upon receipt of this information, the Title IX Coordinator will reach out to the Complainant to offer information regarding supportive measures and formal and informal resolution options.

Generally, disclosures made in climate surveys, academic assignments, IRB-approved human research projects, and speak-outs and rallies (e.g. Take Back the Night or Black Lives Matter events) do not provide notice that must be reported to the Title IX Coordinator by employees, unless the individual clearly indicates that they desire a report to be made or seek a response from the college.

Whenever possible, employees should alert students and co-workers of their obligation to report disclosures, which includes sharing the names of individuals involved and relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX Coordinator prior to the disclosure of any personal information. We suggest faculty include this information on their syllabi.

Failure to report a known incident of harassment or discrimination by a non-confidential employee is a violation of college policy and could be subject to discipline.

D. Reporting Responsibilities Regarding Minors

All Bates employees and volunteers who know, suspect, or receive information indicating that a minor has been abused or neglected, or who has other concerns about the safety of a minor,

must immediately notify the Title IX Coordinator. Under Maine law, abuse or neglect is a threat to the child's health and welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, by a person responsible for the child. In the State of Maine, all educators and administrators are designated as Mandated Reporters and must report any abuse or neglect of a child to the Department of Health and Human Services (DHHS) Office of Children and Family Services (OCFS) or Maine District Attorney's Office. The Title IX Coordinator will assist with this notification. Failure to take action may result in disciplinary action up to and including termination.

E. Request for Confidentiality

The college will pursue a course of action consistent with the Complainant's request for confidentiality where possible. Where a Complainant requests that their name or other identifiable information not be shared with the Respondent or that no formal action be taken, the college will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all Bates community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before disciplinary action is taken against a Respondent.

In making this determination, the college may consider, among other factors, the seriousness of the conduct, the respective ages of the parties, whether the Complainant is a minor under the age of 18, whether there have been other complaints or reports of harassment or misconduct against the Respondent, the existence of independent evidence, and the rights of the Respondent to receive notice and relevant information before disciplinary action is sought. The Title IX Coordinator in consultation with the Title IX Team will evaluate all requests for confidentiality.

Where the college is unable to take action consistent with the request of the Complainant, the Title IX Coordinator will inform the Complainant about the college's chosen course of action, which may include the college seeking disciplinary action against a Respondent. Alternatively, the course of action may include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

F. Timely Warning

If a report discloses a serious, immediate, or continuing threat to the Bates community, the college may issue a campus wide timely warning or notification (which may take the form of an email, text, or other electronic communication to community members) to protect the health or safety of the community and to heighten safety awareness. A timely warning may be issued for a report of any act of violence, but is particularly likely when the college receives reports of assault, sexual assault, domestic violence, dating violence, and stalking that pose a continuing threat of bodily harm or danger to members of the community. Timely warnings will not include any identifying information about the Complainant.

G. Release of Information

All college proceedings are conducted in compliance with the requirements of FERPA, the 2022 Reauthorization of the Violence Against Women Act, the Clery Act, Title IX, state and federal law, and college policy. No information shall be released from such proceedings except as required or permitted by law and college policy.

At no time will the college release the name of a Complainant to the general public without express consent from them. The release of the Respondent's name to the general public is guided by FERPA and the Jeanne Clery Act. The college may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions.

When the resolution of a complaint results in disciplinary sanctions, the release of information regarding these disciplinary actions will be governed by the [Policy on Reporting Student Disciplinary Matters](#) or as outlined in the [Bates College Employee Handbook](#) as applicable. In all circumstances, any release of information will be in compliance with all applicable state and federal laws.

Anonymous statistical information regarding reports must be shared with Bates Campus Safety where required by the Clery Act. Annual Clery reporting to the U.S. Department of Education is required by all educational institutions. The information contained in the Clery Report only tracks the number of Clery-reportable offenses occurring at campus locations or college-sponsored programs (e.g., study away) and does not include the names or any other identifying information about the person(s) involved in the report.

H. Student-Athletes and NCAA Information-Sharing Requirements

As part of its commitment to fostering an athletic culture that supports student safety, the NCAA requires all student-athletes to self-disclose any personal conduct that resulted in an investigation or discipline through a Title IX proceeding or in a criminal conviction for sexual, interpersonal, or other acts of violence. Failure to accurately and fully disclose this information could result in penalties, including loss of eligibility to participate in athletics.

In addition, institutions are charged with a) confirming the accuracy of these self-disclosures, b) sharing student-athlete disciplinary information related to these issues with other NCAA institutions in the event a student-athlete wishes to enroll in a different institution, and c) disclosing to the Athletic Department when the institution begins any formal investigation or imposes any disciplinary action related to sexual, interpersonal, or other violence involving a Respondent who is a student-athlete. In all instances, the information shared will be strictly limited to that information necessary to meet these compliance requirements and will not include any information regarding the Complainant.

Student-athletes will receive notice of these requirements through the Athletic Department as part of their annual athletic compliance certification. Students who have questions about this policy may contact the Title IX Coordinator or the Deputy Title IX Coordinator for

Athletics. Further information can also be found on the [Bates College Athletic Department website](#).

I. Recording of Resolution Proceedings

Bates College policy prohibits unauthorized audio or video recording of any kind. If a Complainant, Respondent, Witness, Advisor, or third-party wishes to record any meeting or interview, they must notify the Title IX Coordinator of that request and receive expressed permission from every individual present.

The college reserves the right to record all meetings, interviews, and hearings, as necessary, to ensure a compliant and reliable process. All participants will be made aware of audio and/or video recording and how that recording will be used prior to the start of the meeting, interview, or hearing. All recordings will be retained and made available to the parties upon request.

J. Maintenance of Records

The Title IX Coordinator will be responsible for documenting all reports under this policy and the actions taken to resolve them. These records will be maintained consistent with college records policies and as required by state or federal law.

In compliance with the federal 2020 Title IX Regulations, the college will maintain for a period of at least seven years the following records related to Title IX reports/complaints:

1. any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. the basis for all conclusions that the response was not deliberately indifferent;
 - b. any measures designed to restore or preserve equal access to the college's education program or activity; and
 - c. if no supportive measures were provided to the Complainant, the reasons why such a response was not clearly unreasonable in light of the known circumstances;
2. any records related to the Formal Resolution of each sexual harassment allegation, including the investigation report, any determination(s) regarding responsibility, and any audio or audiovisual recording or transcript required under federal regulation;
3. any disciplinary sanctions imposed on the Respondent;
4. any remedies provided to the Complainant designed to restore or preserve equal access to the college's education program or activity;
5. any appeal and the result therefrom;
6. any Informal Resolution and the result therefrom; and
7. all materials used to train Title IX Coordinator and Deputy Coordinators, Investigators, Hearing Officers, Appellate Officers, and any person who facilitates an Informal Resolution process. These training materials will be publicly available on [Bates College website](#).

V. Prohibited Conduct and Definitions

- A. Harassment
 - a. Discriminatory Harassment
 - b. Sexual Harassment (Title IX)
 - 1. Quid Pro Quo
 - 2. Sexual Harassment
 - 3. Sexual Assault
 - 4. Dating Violence
 - 5. Domestic Violence
 - 6. Stalking
- B. Other Civil Rights Violations
 - a. Discrimination
 - b. Sexual Exploitation
 - c. Physical Assault and Threats of Violence
 - d. Hazing
 - e. Bullying
 - f. Indecent Exposure
 - g. Hate Crime
 - h. Bias Incident
- C. Retaliation
- D. Prohibited Relationships by Persons in Authority
- E. Other Campus Code Violations

All members of the Bates community are entitled to an educational and employment environment free from discrimination, harassment, and bias. The sections below describe prohibited conduct; engaging in such conduct could result in disciplinary action (up to and including expulsion from the college or termination of employment) through the appropriate grievance process described in this policy.

The college reserves the right to address offensive conduct that does not rise to the level of creating a hostile environment or that is not based on a protected status. Addressing such conduct will not result in the imposition of discipline under this policy, but may include respectful conversation, education and training, remedial and supportive actions, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

The prohibited behaviors described below are interpreted broadly to include online or cyber manifestations of the behavior, when those behaviors occur within or have an effect on the college's education program or activities or use the Bates networks, technology, or equipment.

While Bates may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the college, it will engage in a variety of means to address and mitigate its effects.

Members of the community are encouraged to be good digital citizens and not engage in online misconduct, or otherwise use the ease of transmission and/or anonymity of electronic communication to harm other students or employees.

A. Harassment

a. Discriminatory Harassment

Discriminatory harassment refers to verbal, written, visual, or physical conduct based on or motivated by an individual's actual or perceived protected characteristic or activity as described in Section III of this policy. Harassment is unwelcome conduct or behavior which is personally and objectively offensive or threatening behavior and which has the effect of unreasonably interfering with, limiting, or effectively denying an individual's educational or employment access, benefits, or opportunities. This conduct may be severe or pervasive and has the effect of impairing morale, interfering with academic or work performance, or creating an intimidating, hostile, or offensive environment.

Examples of harassment include but are not limited to:

- Conduct or comments that threaten physical violence;
- Unsolicited offensive remarks;
- Unwelcome gestures or physical contact;
- Display or circulation of written materials, visual items, or pictures degrading to any person's protected characteristic or activity;
- Verbal abuse or insults about or directed at any student, employee, or other individual, or groups of students, employees, or other individuals;
- Repeated use of slurs or taunts in the guise of jokes, or disparaging references to others; and
- Negative references to customs or cultural practices.

The foregoing definition complies with federal and state anti-discrimination laws designed to protect employees (Title VII and the Maine Human Rights Act). Discriminatory harassment could apply to harassing conduct on the basis of sex or gender that does not meet the "severe and pervasive" definition under Title IX, but may meet the hostile environment threshold included in this definition.

The college recognizes that a robust learning environment often challenges community members to engage in conversations about difficult, sensitive, and sometimes controversial subjects. This policy shall not be construed to inhibit or prohibit educational content or discussions inside or outside of the classroom that are protected by [academic freedom](#) and/or the First Amendment.⁵ The college does, however, reserve the right to address the impact of such speech, including community and

⁵ For more information on academic freedom, see Bates Faculty Handbook, Article III. Section 5.

individual training and education and providing supportive measures to those who may feel they are negatively affected by such speech.

b. Sexual Harassment (Title IX)

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Maine regard sexual harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Bates has adopted the following definition of Sexual Harassment to address the unique needs of the academic community. This definition uses plain language to assist individuals in understanding the definitions used in the federal Title IX regulations that all colleges must adopt. Verbatim definitions can be found in Appendix A. All definitions include actual and attempted offenses.

Sexual Harassment, as an umbrella category defined by the federal Title IX regulations, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment is defined as conduct on the basis of sex/gender or that is sexual in nature that satisfies one or more of the following:

1. Quid Pro Quo: A Bates employee conditions the provision of aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct;⁶
2. Sexual Harassment: Unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a Bates education program or activity;⁷
3. Sexual Assault, defined as:
 - a. Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent. This includes:

⁶ This definition is understood to encompass the quid pro quo sexual harassment definition included in the Maine Human Rights Commission employment regulations. Under these regulations, Quid Pro Quo is defined as having occurred when a) submission to unwelcome sexual conduct is made either explicitly or implicitly a term or condition of an individual's employment; or b) submission to or rejection of unwelcome sexual conduct is used as the basis for employment decisions affecting the individual. Employment Regulations of the Maine Human Rights Commission, Sections 10(1)A and 10(1)B.

⁷ The college reserves the right to address unwelcome conduct of a sexual nature that is not severe and pervasive as potential Discriminatory Harassment based on sex or gender. In most instances, employee on employee harassment would be addressed using this Title VII compliant definition.

- i. vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact; and
 - ii. other intentional physical contact of a sexual nature with another individual for the purposes of sexual gratification.
 - b. Incest: Non-forcible sexual intercourse between people who are related to each other within the degrees wherein marriage is prohibited. In the State of Maine, a person may not marry that person's parent, grandparent, child, grandchild, sibling, nephew, niece, aunt, or uncle; and
 - c. Statutory Rape: Non-forcible sexual intercourse with a person who is under the statutory age of consent. In the State of Maine, consent cannot be given by minors who are 14 or 15, if the actor is at least 5 years older than the minor. Consent cannot be given by minors under 14 years of age, regardless of the age of the Respondent. For this reason, any sexual act with an individual under 14 years of age is considered a felony.
4. Dating Violence: Violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence: Violence, on the basis of sex, committed by any of the following:
- a. a current or former spouse or intimate partner of the Complainant;
 - b. a person with whom the Complainant shares a child in common;
 - c. a person who is cohabitating with, or has cohabitated with the Complainant as a spouse or intimate partner;
 - d. a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the State of Maine; or
 - e. any other person considered a household member under the domestic or family violence laws of the State of Maine.

To categorize an incident as Domestic Violence, the relationship between the Complainant and the Respondent must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6. Stalking: A course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition, “course of conduct” means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. These acts can occur by any action, method, device, or means. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking includes cyberstalking -- stalking that occurs through the use of technology or any electronic communication.

For all sexual harassment definitions, “reasonable person” means a reasonable person under similar circumstances and with similar identities to the Complainant.

B. Other Civil Rights Offenses

Bates also prohibits the following behavior as forms of discrimination. In addition to the forms of sexual harassment described above, which are covered by Title IX of the Education Amendments of 1972, these behaviors may or may not fall within the scope of Title IX.

a. Discrimination

Discrimination is any action that deprives, limits, or denies other members of the Bates community educational or employment access, benefits, or opportunities based upon an individual’s actual or perceived legally-protected characteristic or activity.

b. Sexual Exploitation

Sexual Exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the person being exploited and that does not otherwise constitute sexual harassment under this policy.

Examples of sexual exploitation include, but are not limited to:

- Surreptitiously observing another individual's nudity or sexual activity or allowing another individual or group to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual taking or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Distributing sexually intimate or sexual information about another person;
- Prostituting an individual or engaging in sex trafficking;
- Inducing another to expose their own genitals in non-consensual circumstances;
- Knowingly exposing another individual to a sexually transmitted infection (STI) or virus without their knowledge;

- Misappropriating another person's identity on apps, websites, or other venues designed for dating or sexual connections;
- Inducing or attempting to induce incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity;
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or images that depicts a person's nudity or sexual activity;
- Knowingly soliciting a minor for sexual activity;
- Creating, possessing, or disseminating child pornography; and
- Knowingly assisting another person with committing an act of sexual misconduct.

c. Physical Assault or Threats of Violence

Physical Assault is a purposeful action meant to threaten or endanger the health or safety of any person. Examples include, but are not limited to, fighting, pushing, kicking, punching, hitting with or throwing an object at, or biting. Threats of violence may include extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of another person. This behavior is typically treated as a violation of the [Bates Code of Student Conduct](#) and the [Employee Handbook](#). When these acts are perpetrated on the basis of actual or perceived membership in a protected class, the report will be resolved using the procedures outlined in this policy.

d. Hazing

Any action or activity taken, created, or supervised which intentionally or unintentionally, either:

- a) recklessly subjects any person to the risk of bodily harm, mental or physical discomfort, embarrassment, harassment, ridicule, or social ostracism; or
- b) causes or encourages any person to commit an act that would be a violation of law or college regulations

for the purpose of initiating, promoting, fostering, or confirming any form of affiliation with a student group or organization, regardless of the person's willingness to participate and/or whether the activity has been designated as optional or non-compulsory.

e. Bullying

Bullying is repeated or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally. It can be written or oral expression, physical acts or gestures, or a combination of the two. It includes, but is not limited to, conduct that:

- physically harms another person;
- damages another person's property;
- creates an intimidating educational or work environment; or
- interferes with the individual's academic or work performance or ability to participate in or benefit from the services, activities, or privileges provided by the college.

Bullying includes cyberbullying -- bullying that occurs through the use of technology or any electronic communication.

f. Indecent Exposure

A person commits Indecent Exposure if that person intentionally shows their genitals in a public place or in another place where there are other persons present under circumstances in which one knows or should know that this conduct is likely to affront or alarm.

g. Hate Crime

Hate Crime refers to the violence of intolerance and prejudice, intended to hurt and intimidate, committed against a person, property, or society that is motivated by an offender's bias against a specific characteristic of an individual or group because of their race, ethnicity, national origin, religion, sex, sexual orientation, gender identity, gender expression, age, physical or mental disability. Hate crimes are criminal offenses that include acts such as physical assault, stalking, cyberstalking, criminal threatening, intimidation, terrorizing, criminal use of explosives, arson, vandalism or other damage to property, reckless conduct, harassment, verbal abuse or insults, or hate mail. Several Maine statutes provide civil and/or criminal remedies for hate crimes. All suspected hate crimes will be referred to the State of Maine Office of the Attorney General. Bates will pursue college disciplinary action under this policy.

h. Bias Incident

Bias Incident refers to any event of intolerance or prejudice, not involving violence or other criminal conduct intended to hurt and intimidate, committed against a person, property, or society that is motivated by an offender's bias against a specific characteristic of an individual or group because of their race, ethnicity, national origin, religion, sex, sexual orientation, gender identity, gender expression, age, physical or mental disability. Examples of bias incidents include hate speech, gay bashing, racist epithets, religious slurs, sexist jokes or cartoons, hate mail, offensive graffiti, or disparaging remarks on social media sites. Such incidents create a socially divisive atmosphere for members of the Bates community targeted and negatively affect the campus climate.

Since "bias incident" is an umbrella term, incidents will be resolved based upon the actual category of prohibited behavior listed above (harassment, bullying, etc.). Bates reserves the right to address bias incidents that do not rise to the level of a policy violation. Addressing such conduct will not result in the imposition of discipline under this policy, but may include respectful conversation, education and training, remedial and supportive actions, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

C. Retaliation

Retaliation is any act or attempt to retaliate or seek retribution against any individual or group of individuals involved in the filing of a report, investigation, and/or resolution of an allegation of discrimination or harassment. Forms of retaliation include intimidation, threats, pressuring, harassment, continued abuse or violence, slander and libel, or preventing participation in college activities or proceedings. Retaliation can be committed by any individual or group of individuals, not just a Respondent. Retaliatory conduct by community members and third parties is prohibited regardless of whether it occurs on or off campus, in person, or through social media, email, or other forms of communication.

An individual reporting harassment or discrimination is entitled to protection from any form of retaliation following a report that is made in good faith, even if the underlying allegations are later not proven to be a violation of this policy. Individuals acting in good faith to oppose or disrupt conduct that constitutes a violation of this policy are likewise protected from retaliation. Individuals accused of discrimination and harassment are warned that any form of retaliation taken against a person submitting a complaint or participating in an investigation of a complaint will be grounds for disciplinary action, up to and including dismissal from the college.

Any form of retaliation should be reported to the Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator (hereafter, Title IX Coordinator) or one of the Deputy Title IX Coordinators immediately. Upon notification, the Title IX Coordinator will investigate this report and take all appropriate and available steps to protect individuals who may be subject to retaliation.

Any attempt to interfere with or circumvent any right or privilege afforded by this policy may be considered retaliatory. Therefore, as directed by the federal regulations, the Title IX Coordinator vets all complaints carefully to ensure that complaints are routed to the appropriate grievance process and that all appropriate rights and privileges are maintained.

The exercise of rights protected under the First Amendment does not constitute retaliation.⁸

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution proceeding under this policy and procedures does not constitute retaliation, provided that the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.⁹

D. Prohibited Relationships by Persons in Authority

Sexual, romantic, or other intimate relationships in which one party maintains a direct supervisory or evaluative role over the other party are prohibited. In general, this includes all sexual or other intimate relationships between students and their professors, coaches, advisors, employers, supervisors, or other college employees. Similarly, college employees (faculty and

⁸ Per 2020 Title IX Regulations, 34 CFR Part 106.71(b)(1).

⁹ Per 2020 Title IX Regulations, 34 CFR Part 106.71(b)(2).

staff) who supervise or otherwise hold positions of authority over others are prohibited from having a sexual or other intimate relationship with an individual under their direct supervision.

The college does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the college. However, faculty, administrators, and others who educate, supervise, evaluate, employ, counsel, coach, or otherwise guide students or other employees should understand the fundamentally asymmetrical nature of the relationship they have with students or subordinates. Intimate or sexual relationships where there is a differential in power or authority produce risks for every member of our community and undermine the professionalism of employees and supervisors. In either context, the unequal position of the parties presents an inherent element of risk and may raise sexual harassment concerns if one person in the relationship has the actual or apparent authority to supervise, evaluate, counsel, coach or otherwise make decisions or recommendations as to the other person in connection with their employment or education at the college.

Sexual relations between persons occupying asymmetrical positions of power, even when both consent, raise suspicions that the person in authority has violated standards of professional conduct and potentially subject the person in authority to charges of sexual harassment based on changes in the perspective of the individuals as to the consensual nature of the relationship. Similarly, these relationships may impact third parties based on perceived or actual favoritism or special treatment based on the relationship.

Therefore, persons with direct supervisory or evaluative responsibilities who contemplate beginning or are involved in such relationships are required to promptly: 1) discontinue any supervising role or relationship over the other person; and 2) report the circumstances to their own supervisor. Examples of evaluative responsibilities include, but are not limited to: grading, performance evaluations, salary decisions, decisions regarding promotion and tenure, or decisions on continuation of employment for a person with whom they have a consensual relationship. Failure to fully or timely comply with these requirements is a violation of this policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment by the college.

All violations, complaints, or concerns regarding this policy should be reported to the Title IX Coordinator.

E. Other Campus Code Violations

When other potential violations of the [Bates Code of Student Conduct](#) or the [Employee Conduct Policy](#) occur in conjunction with incidents of harassment or discrimination or when the behavior is perpetrated on the basis of bias against a protected class, the college has the discretion to resolve those violations under this policy.

VI. Consent and Related Definitions

- A. Consent
- B. Force
- C. Coercion
- D. Incapacitation
- E. Alcohol or Other Drugs

When evaluating whether there has been a violation of this policy, a determination of whether consent has been given is often necessary. Proof of consent or non-consent is not a burden placed on any party involved in an incident. Instead, the burden remains on the college to determine whether consent has been given based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evinced.

Consent in relationships must also be considered in context. When parties agree to bondage, discipline/dominance, submission/sadism, masochism, and/or other forms of kink, non-consent may be shown by the use of a safe word which might not be ordinarily understood as a signal of non-consent. Similarly, resistance, force, violence, and even saying “no” may be part of the agreed-upon kink and thus consensual. So, the evaluation of communication in kink situations will be guided by reasonableness, rather than strict adherence to understandings that might assume non-kink relationships as a default.

When evaluating the presence of consent, the following definitions and understandings apply.

A. Consent

Consent consists of an active, conscious, and voluntary decision by each participant to engage in mutually agreed-upon sexual activity.¹⁰ Consent must exist from the beginning to the end of each sexual activity or each form of sexual contact. An individual who is physically incapacitated by alcohol or other drug consumption (voluntary or involuntary) or is asleep, unconscious, unaware, or otherwise physically helpless is considered unable to give consent.

The following are essential elements of consent:

- **Informed and reciprocal**

All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.

¹⁰ The definition of consent used in criminal proceedings in the State of Maine differs from that used by the college to address policy violations. See Appendix B for more information regarding state law.

- **Freely and actively given**

Consent cannot be gained by force, coercion, deception, threats; by ignoring or acting in spite of the objections of another; or by taking advantage of the incapacitation of another individual.

- **Mutually understandable**

Consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage freely in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. Relying solely upon non-verbal communication can lead to a misunderstanding or false conclusion as to whether consent was sought or given.

If at any time during the sexual activity, an individual is hesitant, confused, uncertain, or is no longer an enthusiastic participant, both parties should stop and clarify verbally the other's willingness to continue before continuing such activity.

- **Not indefinite**

Either party may withdraw consent at any time. Withdrawal of consent may be expressed by "no" or outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once consent is withdrawn, sexual activity must cease immediately.

All parties must obtain mutually understandable consent before continuing further sexual activity. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity.

- **Not unlimited**

Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.

Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time such activity occurs. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

In the State of Maine, consent cannot be given by minors who are 14 or 15, if the actor is at least 5 years older than the minor. Consent cannot be given by minors under 14 years of age,

regardless of the age of the Respondent. For this reason, any sexual act with an individual under 14 is considered a felony.

B. Force

Force is the use or threat of physical violence, intimidation, or coercion to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. Such action would cause a person to fear for their physical or psychological well-being. For the use of force to be demonstrated, there is no requirement that a Complainant resists the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of non-consent.

C. Coercion

Coercion is the use of unreasonable pressure that compels another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, implied threats or blackmail which places a person in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include, but are not limited to:

- threatening to "out" someone based on sexual orientation, gender identity or gender expression;
- persistent attempts to pressure an individual who has clearly stated their desire to stop activity or their unwillingness to engage in a certain sexual act; and
- threatening to harm oneself or others if the other party does not engage in the sexual activity.

Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

D. Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction).

Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically unable to make informed, reasonable judgments. An individual is incapacitated, and therefore unable to give consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. Incapacitation, however, is determined through a consideration on all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person; however, warning signs that a person may be approaching

incapacitation include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, loss of consciousness, or emotional volatility.

Evaluating incapacitation due to the use of substances requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- decision-making ability;
- awareness of consequences;
- ability to make informed judgments; or
- capacity to appreciate the nature and the quality of the act.

Evaluating incapacitation also requires an assessment of whether the Respondent should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a reasonable person.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy.

E. Alcohol or Other Drugs

In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of their own and the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for any prohibited behavior under this policy and does not diminish one's responsibility for obtaining informed and freely given consent or adhering to the behavioral standards outlined in this policy.

VII. Resources

- A. Awareness and Prevention of Bias, Harassment, and Discrimination
- B. Emergency Support and Response Services
- C. Medical Resources
- D. Confidential Support
 - a. On Campus Confidential Support
 - b. Off Campus Confidential Support
- E. Private Resources and Reporting Options
 - a. On Campus Reporting Options
 - b. Off Campus Reporting Options
- F. Additional Community Resources

Bates is committed to treating all members of the community with dignity, care, and respect. Any Bates community member who experiences or is affected by bias, discrimination, harassment, including racism, homophobia, transphobia, sexual harassment, sexual violence, stalking or intimate partner violence, whether as a Complainant, a Respondent, or a third party, will have equal access to support and counseling services through the college.¹¹ Supportive measures as described below and in Section IX are available to all parties. A formal complaint is not required to access this support.

The college recognizes that deciding whether to make a report, either to the college or law enforcement, and choosing how to proceed can be difficult decisions. The college encourages all individuals affected by any form of harassment or discrimination to seek the support of campus and community resources. These professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to any party in the event that a complaint and/or resolution under this policy is pursued. Individuals are encouraged to use all available resources on and off campus, regardless of when or where the incident occurred.

Bates is committed to providing a comprehensive and integrated prevention, education, and awareness program that attends to the multifaceted dynamics of bias, discrimination, and harassment. The college strives to create a non-discriminatory and harassment-free living, learning, and working environment for all members of the Bates community, including students, staff, faculty, and visitors. The Vice President for Equity and Inclusion (VPEI) coordinates all college equity and inclusion education and prevention programs and develops initiatives to respond to campus needs and climate. The Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator (Title IX Coordinator) collaborates with the VPEI, particularly in regard to education, prevention programming, and other initiatives related to sexual harassment and other discrimination based on gender.

¹¹ Hereafter in this section the umbrella terms “discrimination” and “harassment” will be used to capture all of these categories.

A. Awareness and Prevention of Bias, Discrimination, and Harassment

All incoming students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training and education on a periodic basis.

Educational, developmental, and responsive programs that address bias, racism, homophobia and other areas of discrimination based on identity are facilitated by the Office of Equity and Inclusion, the Office of Intercultural Education, and Student Affairs. The VPEI oversees the assessment of community and individual needs generally and works with the Office of Title IX & Civil Rights Compliance and others across campus to identify appropriate action and response.

Educational programs focused on sexual harassment include an overview of the college's policies and procedures, relevant definitions of prohibited conduct, discussion of the impact of alcohol and illegal drug use, effective consent, safe and positive options for bystander intervention, and information about risk reduction. The Title IX Coordinator oversees the education and prevention calendar and tailors programming to campus needs and climate. All educational programs include a review of resources and reporting options available for students, faculty, and staff.

B. Emergency Support and Response Services

Bates encourages all community members to seek assistance from a medical provider and/or law enforcement as soon as possible after an incident of violence, including sexual violence. This often is the best option to provide immediate physical safety, emotional support, and medical care. It also may help to ensure preservation of evidence and to begin a timely investigative and remedial response. The college will escort any Bates community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the college's resources and reporting processes.

Assistance is available from Bates Campus Safety and local law enforcement 24 hours a day, year-round, by calling Bates Campus Safety and/or the Lewiston Police Department. Any individual can request that a member of Bates Campus Safety and/or Lewiston Police Department respond and take a report. An officer from the Lewiston Police Department can meet with a student or employee on campus at whatever location they are most comfortable. Bates Campus Safety will provide transportation upon request to a medical center or the police department.

More detailed information about filing a criminal complaint can be found on the [Bates Here to Help webpage](#).

Contact Information for Emergency Response Services

911

Bates Campus Safety

207-786-6111 (emergency) or 207-786-6254 (non-emergency)

Lewiston Police Department

207-784-6421

C. Medical Resources

A medical provider can provide emergency and/or follow-up medical services. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect and second, to properly collect and preserve evidence.

In cases of sexual violence, the forensic exam may include testing and prophylactic treatment for HIV/AIDS, STIs, and pregnancy; a thorough physical examination, which includes the genital and/or anal area; and a blood draw. There is a limited window of time (typically 72-96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any particular course of action. The decision to seek timely medical attention and gather any evidence, however, will preserve the full range of options to seek resolution under this policy or through the pursuit of criminal prosecution. Filing a report with local law enforcement is not required to get a forensic exam. More detailed information regarding Sexual Assault Forensic Exams can be found on the [Bates Here to Help webpage](#).

On campus, [Bates Health Services \(BHS\)](#) can provide medical care to students during regular business hours. While a nurse is available to talk with anyone who has questions about forensic examinations, BHS is not equipped to perform forensic examinations. The Complainant has the option -- and is encouraged -- to go to [Central Maine Medical Center \(CMMC\)](#) for care and to have evidence collected. CMMC provides forensic exams and is the preferred local medical center for those seeking sexual assault forensic examinations. Bates Campus Safety will provide transportation upon request to CMMC.

[Lewiston Family Planning](#) can also provide routine and on-going medical care. As part of the Maine Family Planning network, this clinic provides specialized care for sexual and reproductive health to individuals of all genders. Lewiston Family Planning employs providers who specialize in transgender health services as well.

The [Bates Confidential Resource Advisor](#) (CRA) or an advocate from [Sexual Assault Prevention and Response Services](#) (SAPARS) is available to accompany individuals to access off-campus resources.

Conversations with health care professionals are confidential and governed by [Health Insurance Portability and Accountability Act \(HIPAA\)](#).

Contact Information for Medical Services

[Bates Health Services](#)

31 Campus Avenue | 207-786-6199

9 am-5 pm Monday-Friday during academic year

Treatment of injuries, emergency contraception, and STI testing and treatment.

Central Maine Medical Center (CMMC)

300 Main Street, Lewiston | 207-795-2200

24-hour Emergency Department

Treatment of injuries, emergency contraception, and STI testing and treatment. Sexual Assault Forensic Examiners are available to provide forensic exams and collect physical evidence for future use.

Lewiston Family Planning

179 Lisbon Street, Lewiston | 207-795-4007

Limited hours Monday, Wednesday, Thursday, and Friday

Provide specialized care for sexual and reproductive health to individuals of all genders, including transgender health services.

D. Confidential Support

While Bates encourages all community members to make a prompt report of any incident of bias, harassment, or discrimination, including racism, homophobia, transphobia, and sexual harassment or violence, to the college or local law enforcement, the college understands that deciding whether or not to file a report can be difficult. For individuals who are not prepared to make a report, or who may be unsure what happened, but are still seeking information and support, there are several confidential resources on campus and in the local community, including counseling and support services.

Individuals affected by any type of discrimination or harassment may want to consult with someone in a confidential manner without making a report to the college or filing an official complaint. The trained professionals listed in this section are designated as confidential and may not share information about a patient/client (including whether or not that individual has received services) without the individual's expressed consent unless there is imminent danger to the patient/client or other community members, or as otherwise required by law. They may, however, submit non-identifying information about the incident for the purposes of making a statistical report under the Clery Act, as described in [Section IV](#).

a. On Campus Confidential Support

Bates Counseling and Psychological Services

31 Campus Avenue | 207-786-6200

Provides comprehensive mental health care, including both crisis and therapeutic counseling for students.

Bates Ombuds Program

Provides assistance to staff and faculty seeking appropriate paths to resolving workplace concerns, including a review of options for informal resolutions. *Please note while

Ombuds are confidential under college policies, they do not have legal privilege and, therefore, may be required to disclose information shared with them in civil or criminal legal proceedings.

Multifaith Chaplaincy

Brittany Longsdorf and Raymond Clouthier

163 Wood Street, 2nd Floor | 207-786-8272 | blongsdo@bates.edu and rclothier@bates.edu

Provides individualized emotional and spiritual support through pastoral care and conversation.

Office of Intercultural Education

Dri Huber, Assistant Dean and Director of First Generation Programs, Office of Intercultural Education

Chase Hall, Room 151 | 207-755-5981 | ahuber@bates.edu

Provides individualized support and assistance to students who have experienced discrimination and/or harassment and are seeking information regarding resources and resolution options. *Please note while Dean Huber is confidential under college policies, they do not have legal privilege and, therefore, may be required to disclose information shared with them in civil or criminal legal proceedings.

Confidential Resource Advisor (CRA) *previously known as* Sexual Assault Victim Advocate (SAVA)

Lindy Magness

Chase Hall, Room 001C | 207-753-6996 | cra@bates.edu

Provides information, advocacy, and support to anyone affected by interpersonal violence, sexual harassment, sexual violence, or stalking. Can assist with navigating local medical and legal systems and provide guidance on safety planning.

b. Off Campus Confidential Support

STATE AND LOCAL SERVICES

Employee Assistance Program (EAP) -- Aetna Resources for Living

www.resourcesforliving.com | 888-238-6232 | User ID: 4bates; ID = bwell

Provides free, confidential counseling services to Bates employees to help address a variety of personal issues. Staffed 24/7 by qualified mental health professionals available to listen to concerns and make referrals to a local provider for in person counseling or to resources in your community.

Immigrant Resource Center of Maine

265 Lisbon Street, Suite 2, Lewiston | 207-753-0061 | www.ircofmaine.org

Provides culturally and linguistically sensitive services to the refugee and New Mainer communities, including interpreter services; domestic violence, sexual assault, and trafficking support and advocacy; and system advocacy.

Maine Coalition Against Sexual Assault

24-hour hotline: 800-871-7741 | mecasa.org

Statewide coalition of sexual assault victim service providers. Access to advocates via hotline or online chat or text.

Maine Coalition to End Domestic Violence

24-hour hotline: 866-834-HELP | www.mcedv.org

A confidential statewide hotline for survivors of domestic abuse and violence staffed by trained professionals and volunteers.

Safe Voices (Domestic Violence)

24-hour helpline: 800-559-2927 | safevoices.org

A confidential domestic violence helpline staffed by trained, caring and confidential advocates. Provides individual support, legal advocacy, support groups, and shelter for survivors of domestic abuse. Located in Lewiston.

Sexual Assault Prevention and Response Services (SAPARS)

24-hour helpline: 800-871-7741 | www.sapars.org

A confidential sexual assault helpline staffed by trained, caring and confidential advocates. An advocate can meet with an individual at the Bates Health Services or other campus location, escort or meet an individual at the hospital, assist someone filing a police report, or help navigate the legal system. Located in Lewiston.

Tri-County Mental Health Services

24-hour crisis line: 888-568-1112 | 888-344-4673 | www.tcmhs.org

Local, confidential mental health care from licensed professionals. Providing trauma-informed, integrated services that promote whole health and wellness.

Wabanaki Women's Coalition

www.wabanakiwomenscoalition.org

Provides contact and services information for domestic violence, sexual assault and sex trafficking advocacy organizations for all five Wabanaki tribes.

NATIONAL HELPLINES

1in6

1in6.org/men/get-help

A free and anonymous 24-hour online helpline for male-identified people who've experienced sexual abuse or assault and for those who care about them.

FORGE

forge-forward.org

Online resources for transgender and gender non-conforming survivors of violence and their allies, including assistance with referrals to local therapists who specialize in working with transgender individuals.

National Domestic Violence Hotline

24-hour helpline: 800-799-7233 | www.thehotline.org

A confidential domestic violence hotline staffed by highly-trained advocates available to talk confidentially with anyone experiencing domestic violence, seeking resources or information, or questioning unhealthy aspects of their relationship.

Rape, Abuse, Incest National Network (RAINN)

24-hour helpline: 800-656-4673 | www.rainn.org

The nation's largest anti-sexual violence organization. Free, confidential support via its national sexual assault hotline. Advocates are available via hotline or the chat function on their website.

The Stalking Prevention, Awareness, and Resource Center (SPARC)

www.stalkingawareness.org

Provides online resources to victims of stalking, including information about how to connect to victim services and safety planning.

E. Private Resources and Reporting Options

a. On-Campus Reporting Options

In addition to the confidential resources listed above, Bates community members have access to a variety of private resources provided by the college. The individuals listed below can a) provide information regarding the college's policies and procedures; b) assist in accessing other support services; and c) help arrange for supportive measures or other remedies. While not bound by confidentiality, these resources will maintain the privacy of an individual's information within the limited circle of those who need to know to assist with providing support services or resolving a report.

The professionals listed below are trained to support individuals affected by bias, discrimination, and harassment based on any measure of identity, including racism, homophobia, sexual harassment, and sexual violence, and to coordinate with the Title IX Coordinator consistent with the college's commitment to a safe and healthy educational and work environment. Title IX Team members have additional robust training in supporting those individuals reporting sexual harassment, including sexual assault, stalking, and domestic and dating violence; Bias Response Team Members are particularly attuned to issues of racism, homophobia, and bias based upon other protected classes.

TITLE IX TEAM

Director of Title IX & Civil Rights Compliance/Title IX Coordinator, Gwen Lexow
Lane Hall 202-A | 207-786-6445 | glexow@bates.edu

Deputy Title IX Coordinator for Athletics, Celine Cunningham
Deputy Director of Athletics & Senior Woman Administrator
Alumni Gym | 207-786-6342 | ccunning@bates.edu

Deputy Title IX Coordinator for Faculty, Don Dearborn
Associate Dean of Faculty and Professor of Biology
Lane Hall 120 | 207-786-6107 | ddearbor@bates.edu

Deputy Title IX Coordinators for Staff and Visitors

Hope Burnell, Assistant Vice President for Human Resources
215 College Street | 207-786-8388 | hburnell@bates.edu

Patty Rooney, Human Resources Director
215 College Street | 207-753-6935 | prooney@bates.edu

Deputy Title IX Coordinator for Students, Andee Bucciarelli
Associate Director of Residence Life for Health Education
Chase Hall, Room 001E | 207-786-6215 | abucciar@bates.edu

BIAS RESPONSE TEAM

Associate Vice President for Title IX & Civil Rights Compliance, Gwen Lexow
Lane Hall 202-A | 207-786-6445 | glexow@bates.edu

Vice President for Equity and Inclusion, Leana Amaez
Lane Hall 201 | 207-786-6031 | lamaez@bates.edu

Assistant Vice President for Human Resources, Hope Burnell
215 College Street | 207-786-8388 | hburnell@bates.edu

Vice President for Academic Affairs, Malcolm Hill
Lane Hall 210 | 207-786-6066 | mhill@bates.edu

Dean of Students, Erin Foster Zsiga
Chase Hall, Room 007A | 207-786-6220 | efoster@bates.edu

ADDITIONAL ON-CAMPUS REPORTING OPTIONS

Bates Campus Safety

Open 24 hours a day, 7 days a week
245 College Street | 207-786-6254
Emergency: 207-786-6111

Residence Life Staff

In houses and residence halls

b. Off Campus Reporting Options

Reports concerning the application of this policy may also be directed to the following government agencies:

Maine Human Rights Commission

#51 State House Station, 19 Union Street, Augusta, ME 04333
207-624-6290 | TTY: Maine Relay 711 | Request@mhrc.maine.gov
www.maine.gov/mhrc/

Office for Civil Rights, U.S. Department of Education

400 Maryland Avenue, SW, Washington, DC 20202-1100
800-421-3481 | TTY: 800-877-8339 | OCR@ed.gov
www.ed.gov/ocr

Office for Civil Rights, U.S. Department of Education -- Boston Office

5 Post Office Square, 8th Floor, Boston, MA 02109-3921
617-289-0111 | ocr.boston@ed.gov

Employees may also contact:

United States Equal Employment Opportunity Commission

131 M Street, NE, Washington, DC 20507
800-669-4000 | TTY: 800-669-6820 | ASL Video: 844-234-5122 | info@eeoc.gov
www.eeoc.org

United States Equal Employment Opportunity Commission -- Boston Office

JFK Federal Building, 15 New Sudbury Street, Room 475, Boston, MA 02203-0506
800-669-4000 | TTY: 800-669-6820 | ASL Video: 844-234-5122

F. Additional Community Resources

Students, faculty, and staff members may also access additional off campus resources for assistance in working with the civil or criminal justice system. Off-campus resources will not notify the college of their report without the Complainant's consent.

American Civil Liberties Union -- Maine

207-774-5444 | aclumaine.org

Maine affiliate of the national civil liberties organization. Provides information, advocacy, and legal representation for those seeking to understand or secure their civil rights.

Priority issues include criminal justice reform, reproductive freedom, racial justice, immigrants' rights, LGBTQ rights, women's rights, voting rights, freedom of expression, freedom of speech and religion, and privacy.

Androscoggin County District Attorney

Androscoggin County Courthouse, 2 Turner Street, Auburn | 207-783-7311

www.androscoggincountymaine.gov/DA/DA.htm

Responsible for the prosecution of criminal complaints in Androscoggin County.

Maine Crime Victims' Compensation Program

Office of the Attorney General, 6 State House Station, Augusta

207-624-7882 | 800-903-7882 | www.maine.gov/ag/crime/victims_compensation/

State program offering financial assistance for victims of violent crimes occurring in Maine, including paying cost for sexual assault forensic examination.

VIII. Reporting

- A. Key Reporting Definitions
 - a. Report
 - b. Notice
 - c. Formal Complaint
- B. Reporting to and Coordination with Law Enforcement
- C. Campus Reporting Options
- D. Anonymous Reporting
- E. Reporting Considerations
 - a. Timeliness of Report
 - b. Location of Incident
- F. Student Amnesty for Alcohol or Other Drug Use
- G. False Allegations and Evidence
- H. Counterclaims
- I. Reports involving Minors or Suspected Child Abuse
- J. Reluctance by Complainant to Pursue Resolution
- K. Withdrawal of Complaint

The college is committed to providing a variety of accessible means of reporting any form of bias, discrimination, or harassment, including racism, homophobia, transphobia, sexual harassment, or sexual violence and other sexual misconduct.¹² Our goals are to reduce barriers to reporting and to simplify the reporting process as much as possible. By providing a variety of reporting options, individuals wishing to report an incident can use whatever reporting mechanism that is most comfortable and convenient for them. All Bates community members, even those who are not obligated by the college's policy, are strongly encouraged to report information regarding any incident of bias, discrimination, or harassment to the Associate Vice President for Title IX and Civil Rights Compliance/Title IX Coordinator (hereafter "Title IX Coordinator"), who is specifically charged with coordinating the initial assessment, investigation, and response to such allegations.

At the time a report is made, a Complainant does not have to decide whether or not to request a formal resolution process. Choosing to make a report and deciding how to proceed after making the report can be a process that occurs over time. To the fullest extent possible, the college will respect an individual's autonomy in making these decisions and provide support that will assist each individual in making that determination.

Whenever possible the Title IX Coordinator will defer to the wishes of the Complainant. In the rare situations where the college must act to provide for the safety of the community and/or take

¹² Throughout the remainder of this section, the terms "harassment" and "discrimination" are used as umbrella term to capture all forms of bias, harassment, and discrimination, including those specifically named here.

action to fulfill its obligation to foster a harassment-free working and learning environment, the Title IX Coordinator will communicate this decision with the Complainant.

Any individual who reports discrimination or harassment can be assured that all reports will be investigated and resolved in a fair and impartial manner. All individuals involved can expect to be treated with dignity and respect. In every report under this policy, the college will make an immediate assessment of any risk of harm to the Complainant or to the broader campus community and will take steps necessary to address those risks. These steps may include temporary protective measures to provide for the safety of the Complainant or others involved and the campus community as necessary. In this process, the college will balance the Complainant's interests with its obligation to provide a safe and non-discriminatory environment for all members of the college community.

A. Key Reporting Definitions

While many individuals conflate the terms “report”, “complaint”, and “notice”, these terms have very specific meanings under this policy.

a. Report

Report is an umbrella term used to indicate a Complainant or third-party has shared allegations of bias, harassment, discrimination, or retaliation by either informing any Bates employee with reporting responsibilities in conversation or writing, via phone (including leaving a voicemail message) or electronic means (email, text, chat, etc.) or by using the online anonymous reporting system.

Employees with reporting responsibilities are required to share any information of which they become aware with the Title IX Coordinator. For more information on employees who are required to report disclosures of prohibited behavior under this policy and the information they must share, please see Section IV. C.

Reports differ from formal complaints (see below) and individuals who submit reports are under no obligation to initiate a formal complaint or to pursue any further action. Except in rare circumstances involving a compelling threat to the health and/or safety of the Complainant or the broader Bates community, the Complainant maintains significant influence on how the resolution process proceeds. Making a report simply initiates outreach from the Title IX Coordinator and allows them to offer supportive measures and further information regarding the Complainant's rights under this policy.

b. Notice

Notice means that a Complainant or third-party has informed the Title IX Coordinator, any Deputy Title IX Coordinator, any Bias Response Team member, or other Official with Authority of the alleged occurrence of bias, harassment, discrimination, or retaliation. Upon receiving notice, the Title IX Coordinator or their designee will reach out to the Complainant to offer supportive and safety measures and to explain how to file a formal complaint. When the college receives notice of allegations of Sexual

Harassment or any other Title IX violation, its official obligations under Title IX are initiated.

c. Formal Complaint

A formal complaint is an official document filed by the Complainant, or in rare circumstances by the Title IX Coordinator, that: 1) alleges either bias, harassment, or discrimination based on any protected class or retaliation for engaging in a protected activity against a Respondent; and 2) requests that the college investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. The Title IX Coordinator will assist any individual who wishes to submit a formal complaint to ensure it is filed correctly.

B. Reporting to and Coordination with Law Enforcement

The college encourages individuals to pursue criminal action for incidents of discrimination or harassment that may also be crimes under federal or Maine criminal statutes. The college will assist a Complainant, at the Complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law. Except where the Complainant is less than 18 years old, the college will respect a Complainant's choice whether or not to report an incident to local law enforcement, unless the college determines that there is an overriding issue with respect to the safety or welfare of the college community. When a report involves suspected abuse of a minor under the age of 18, the college is required by state law to notify the Maine Office of Child and Family Services and/or the Maine District Attorney's office.

The college's policy, definitions, and standard of proof can differ from Maine criminal law.¹³ A Complainant may seek resolution through the college's resolution process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's decision whether or not to prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether discrimination or harassment has occurred under this policy. Proceedings under the college's Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Individuals seeking assistance under Bates's policy are not required to file a criminal complaint.

At the request of local law enforcement, the college may agree to defer for a short time its own fact gathering until after the initial stages of a criminal investigation. The college will nevertheless communicate with the Complainant regarding rights under this policy, procedural options, and the implementation of supportive measures to foster their safety and well-being. The college will promptly resume its own fact gathering as soon as it is informed that law enforcement has completed its initial investigation.

Individuals wishing to file a criminal complaint for incidents of discrimination or harassment that occurred on campus may contact the Lewiston Police Department directly. Individuals may also

¹³ See Appendix B for key definitions in the State of Maine statutes.

contact the Title IX Coordinator, the Confidential Resource Advisor, Bates Campus Safety, Sexual Assault Prevention & Response Services, or Safe Voices for assistance with filing a criminal complaint.

Lewiston Police Department

911 | 207-784-6421 (non-emergency dispatch) | 171 Park Street, Lewiston

C. Campus Reporting Options

The college encourages all individuals to report all forms of bias, discrimination, and harassment to the Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator or any of the individuals listed below. These professionals are trained to support individuals affected by bias, discrimination, and harassment based on any measure of identity, including racism, homophobia, transphobia, sexual harassment, and sexual violence, and to coordinate with the Title IX Coordinator consistent with the college's commitment to a safe and healthy educational and work environment. Title IX Team members have additional robust training in supporting those individuals reporting sexual harassment, including sexual assault, stalking, and domestic and dating violence; Bias Response Team Members are particularly attuned to issues of racism, homophobia, transphobia, and bias based upon other protected classes.

Reports can be made in-person, via telephone, mail, or email, or using the online anonymous reporting system. Upon receipt of any report, including third-party reports, Title IX Coordinator, or their designee, will contact the Complainant to offer supportive measures and to provide information on how to file a formal complaint.

Complainants should be aware that with the exception of those employees who have legally recognized confidentiality or who are listed as Confidential Support Resources in [Section VII](#) of this policy, all college employees with responsibility for the welfare of students and all supervisors, including faculty, coaches, administrators, and residence life staff, are required to share with the Title IX Coordinator any report of discrimination or harassment, including reports of sexual assault, domestic or dating violence, and stalking, they receive or of which they become aware. Student employees who have responsibility for the welfare of other students, such as Junior Advisors, Community Advisors, and Residence Life Team Leaders, are also required to report to the Title IX Coordinator any incident of which they become aware. More information on the reporting responsibilities of employees can be found in [Section IV of this policy](#).

Reports made to the Title IX Coordinator or any member of the Title IX Team or Bias Response Team constitute notice to the institution and will initiate outreach from the Title IX Coordinator or their designee. Other Officials with Authority include the following individuals: President; Vice President for Academic Affairs; Vice President of Campus Life; Vice President for College Advancement; Vice President for Communications and Public Affairs; Vice President for Enrollment; Vice President for Equity and Inclusion; Vice President for Finance and Administration; Vice President for Information and Library Services; Vice President for

Institutional Affairs; Assistant Vice President for Human Resources and Environmental Health and Safety; Dean of Students; any Senior Associate Dean of Students; Director of Athletics; Human Resources Director; and Director of Residence Life and Community Standards. Any report to an Official with Authority also constitutes notice to the institution.

Contact Information for Campus Reporting Options

TITLE IX TEAM

Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator, Gwen Lexow

Lane Hall 202-A | 207-786-6445 | glexow@bates.edu

Deputy Title IX Coordinator for Athletics, Celine Cunningham

Senior Associate Athletic Director

Alumni Gym | 207-786-6342 | ccunning@bates.edu

Deputy Title IX Coordinator for Faculty, Don Dearborn

Associate Dean of Faculty and Professor of Biology

Lane Hall 120 | 207-786-6107 | ddearbor@bates.edu

Deputy Title IX Coordinator for Staff and Visitors, Hope Burnell

Assistant Vice President for Human Resources

215 College Street | 207-753-6935 | hburnell@bates.edu

Deputy Title IX Coordinator for Staff and Visitors, Patty Rooney

Assistant Vice President for Human Resources

215 College Street | 207-753-6935 | prooney@bates.edu

Deputy Title IX Coordinator for Students, Andee Bucciarelli

Associate Director of Residence Life for Health Education

Chase Hall, Room 001E | 207-786-6215 | abucciar@bates.edu

BIAS RESPONSE TEAM

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Lane Hall 202-A | 207-786-6445 | glexow@bates.edu

Vice President for Equity and Inclusion, Leana Amaez

Lane Hall 201 | 207-786-6031 | lamaez@bates.edu

Assistant Vice President for Human Resources, Hope Burnell

215 College Street | 207-786-8388 | hburnell@bates.edu

Vice President for Academic Affairs, Malcolm Hill

Lane Hall 210 | 207-786-6066 | mhill@bates.edu

Dean of Students, Erin Foster Zsiga

Chase Hall, Room 007A | 207-786-6220 | efoster@bates.edu

ADDITIONAL CAMPUS REPORTING OPTIONS

Bates Campus Safety

Open 24 hours a day, 7 days a week

245 College Street | 207-786-6254

Emergency: 207-786-6111

Professional and Student Residence Life Staff

In houses and residence halls

D. Anonymous Reporting

Any individual may make an anonymous report of behaviors prohibited by this policy. In doing so, an individual may report the incident:

- without disclosing their own name;
- without identifying the Respondent; and/or
- while requesting that no action be taken.

Depending on the extent of information available about the incident and the individuals involved, however, the college's ability to respond to an anonymous report may be limited. Wherever possible, the college will take action to stop any harassing or discriminatory behavior, to prevent its recurrence, and to provide supportive measures and/or remedies to those who have been negatively affected.

The college's anonymous reporting system is hosted by a third-party provider, [EthicsPoint](#). This service allows the college to communicate with the person making the report, while maintaining their anonymity. EthicsPoint stores all information regarding these reports on their secure servers. Information collected by EthicsPoint is subject to their data security and [privacy policies](#).

The Title IX Coordinator will receive the information contained in the anonymous report and will determine any appropriate response or action, including individual or community remedies as appropriate. In consultation with the Director of Campus Safety, the Title IX Coordinator will determine if the anonymous report provides sufficient information to submit a Clery crime report.

To report anonymously online: bates.ethicspoint.com

To report anonymously by phone: 844-251-1879

EthicsPoint is NOT a 911 or Emergency Service: If you require immediate or emergency assistance, please contact the Bates Campus Safety at 207-786-6111 or dial 911.

E. Reporting Considerations

a. Timeliness of Report

All community members are encouraged to report harassment and discrimination as soon as possible in order to maximize the college's ability to respond promptly and effectively. The college does not, however, limit the time frame for reporting. If the Respondent is no longer a student or employee or is not a member of the Bates community, the college may not be able to take disciplinary action against the Respondent; but the college will take all reasonable steps to provide support to the Complainant and to end the harassment, prevent its recurrence, and address its effects.

Pursuing formal resolution of reports significantly impacted by the passage of time is at the discretion of the Title IX Coordinator. In all cases, however, the Title IX Coordinator will document the allegations and offer supportive measures as appropriate.

When there is a significant delay between the occurrence of the alleged incident and the resolution of a report of it, the college typically will apply the policy in place at the time of the incident and the procedures in place at the time of resolution.

b. Location of Incident

An incident does not have to occur on campus to be reported to the college. All college community members are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. Members of the college community have a responsibility to adhere to college policies and local, state, and federal law. As a result, this policy applies both to on-campus and off-campus conduct as described in [Section II](#). In particular, off-campus conduct that is likely to have a substantial adverse effect on any member of the college community or Bates College may be addressed under this policy.

F. Student Amnesty for Alcohol or Other Drug Use

The college seeks to remove any barriers to reporting. A student who reports bias, harassment, or discrimination, either as a Complainant or a third party, will not be subject to disciplinary action by the college for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. Amnesty does not apply to more serious allegations such as physical abuse of another person or illicit drug distribution. The college may initiate an educational discussion or pursue other educational or therapeutic remedies regarding alcohol or other drugs for those individuals receiving amnesty.

G. False Allegations and Evidence

The college takes the accuracy of information very seriously, as an accusation of racism, homophobia, sexual harassment, sexual violence, stalking, or dating or domestic violence, or other harassment or discrimination, may have severe consequences. Knowingly making a false report or complaint under this policy, or knowingly providing false or intentionally misleading information during an investigation, may result in disciplinary action up to and including dismissal from the college or termination of employment. A good faith complaint that results in a determination that the evidence is not sufficient to support a formal charge or to constitute a violation of this policy is not considered to be a false report.

Parties or witnesses may be subject to disciplinary action if they engage in any of the following:

- a) knowingly fabricating or otherwise providing false evidence;
- b) destroying or tampering with evidence;
- c) pressuring other parties to provide false information or evidence; and
- d) deliberately misleading any official involved in the resolution of the complaint.

It is a violation of the Student Code of Conduct and the Employee Handbook to make an intentionally false report of any college policy violation or to obstruct college disciplinary procedures. Filing a false report may also violate state criminal statutes and civil defamation laws.

H. Counterclaims

The college is obligated to ensure that the grievance process is not abused for retaliatory purposes. This policy permits the filing of counterclaims but uses an initial assessment, described in [Section X](#), to assess whether the allegations in the counterclaim are made in good faith. Counterclaims determined to have been reported in good faith will be resolved using the resolution procedures outlined in this policy. Counterclaims made in bad faith or with retaliatory intent will be dismissed.

Counterclaims may be resolved through the same investigation and/or hearing as the underlying allegation or may take place after resolution of the underlying initial allegation at the discretion of the Title IX Coordinator. As with initial complaints, any good faith counterclaim that results in a determination that the evidence is not sufficient to constitute a violation of this policy is not considered to be a false report.

When counterclaims are not made in good faith, they will be considered a false report and may constitute a violation of the college's retaliation prohibition as well. As a result, any individual filing a counterclaim in bad faith may be subject to disciplinary action up to and including dismissal from the college or termination of employment.

I. Reports Involving Minors or Suspected Child Abuse

When a report involves suspected abuse of a minor under the age of 18, the college is required by state law to notify the Maine Office of Child and Family Services and/or the District Attorney's

office. This requirement extends to resources designated as confidential by the college, including staff and counselors at Bates Health Services and Bates Counseling and Psychological Services, ordained Multifaith Chaplains, Ombuds, and the Confidential Resource Advisor.

J. Reluctance by Complainant to Pursue Resolution

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

In cases in which the Complainant requests confidentiality or no formal action and the circumstances allow the Title IX Coordinator to honor that request, the Title IX Coordinator will offer administrative resolution options and supportive measures to the Complainant and the community, but will not otherwise pursue the formal grievance process.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously and to have the allegations investigated and properly resolved through these procedures. Delays in proceeding with the formal grievance process may cause limitations on access to evidence, or present issues with respect to the status of the parties.

The Title IX Coordinator has ultimate discretion over whether the college proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a Formal Resolution process upon completion of an appropriate initial assessment. A Formal Resolution process will result from any violence risk assessment that shows a compelling risk to health and/or safety that requires the college to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The college may also be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant remains the individual who is alleged to be the victim of conduct that could constitute a violation of this policy and that individual may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

The college's ability to remedy and respond to notice may be limited if the Complainant wishes to maintain anonymity or does not want to proceed with an investigation and/or resolution process.

K. Withdrawal of Complaint

The Complainant may withdraw a formal complaint prior to the completion of the resolution options described in this policy. Withdrawal of the complaint will, in most circumstances, end any investigation or process taking place under this policy. The college reserves the right to move forward with a complaint, even after the Complainant withdraws it, in order to protect the interests and safety of the college community. A Complainant who wishes to withdraw their complaint should discuss matter with the Title IX Coordinator who will assist them.

IX. Supportive and Safety Measures

- A. Range of Supportive and Safety Measures
- B. Emergency Removal and Administrative Leave

Upon receipt of any notice of alleged bias, harassment, discrimination, or retaliation, including racism, transphobia, homophobia, and sexual violence, the college will provide reasonable and appropriate supportive and safety measures designed to mitigate the effects of the alleged behavior and protect the parties involved.¹⁴ These non-disciplinary and non-punitive measures will be determined on a case-by-case basis and will be offered without charge upon notice to the college. The goal of these measures is to: a) restore or preserve the party's access to the college's education program or activity; b) protect the safety of all parties or the Bates community; and c) deter any further harassment, discrimination, or retaliation. The college will make every effort to communicate with the Complainant to ensure that all safety and emotional and physical well-being concerns are being addressed and that their wishes are taken into account with respect to which measures are implemented. Supportive and safety measures are available irregardless of whether a formal complaint is filed or Formal Resolution under this policy is sought by the Complainant.

The Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator (hereafter "Title IX Coordinator"), who oversees the implementation of supportive measures, will maintain the privacy of parties to the fullest extent possible and will limit the sharing of information regarding these measures only to those who "need to know" and to only the limited information needed to provide these measures. In implementing supportive and safety measures, the college will work to minimize the academic impact on the parties while still attending to student needs. In all cases, the Title IX Coordinator will implement these measures in ways that do not unreasonably burden any party.

The college may choose to impose safety measures, such as a campus No Contact Order, at its discretion to ensure the safety of all parties, the safety of the broader college community, and/or the integrity of the resolution process. All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a safety measure. The college will take immediate and responsive action to enforce a previously implemented measure.

A. Range of Supportive and Safety Measures

Supportive and safety measures may be applied to any party and include, but are not limited to:

- Assistance with medical or therapeutic care:
 - Providing access to counseling, medical, or other healthcare services;

¹⁴ Throughout the remainder of this section, the terms "harassment" and "discrimination" are used as umbrella terms to capture all forms of bias, harassment, and discrimination, including those specifically named here.

- Assistance in setting up initial appointments;
- Assistance to accessing confidential services:
 - Providing a referral to the Employee Assistance Program;
 - Providing a referral and assistance setting up an appointment with on campus confidential resources;
 - Assistance with access to off campus resources (Save Voices, Immigrant Resource Center, Sexual Assault Prevention and Response Services, etc.);
- Assistance with academic needs (in conjunction with faculty, as necessary):
 - Rescheduling of exams and assignments;
 - Providing alternative course completion options;
 - Changing a class schedule, including the ability to take deferral, drop a course without penalty, or transfer sections;
 - Providing academic support services, such as tutoring;
- Assistance with personal safety:
 - Imposing a No Contact Order between parties;
 - Issuing No Trespass Orders;
 - Providing an escort to ensure safe movement between classes and activities;
 - Assisting with transportation needs;
 - Increased security or monitoring of certain areas of campus;
 - Safety planning assistance;
- Assistance with housing and dining:
 - Changing an on-campus housing assignment;
 - Providing assistance from college support staff in completing housing relocation;
 - Individualized assistance with accessing dining services;
- Changing a work schedule or job assignment;
- Delivering training or education to the community, organization, group, or individual;
- Facilitating a voluntary leave of absence;
- Financial Aid counseling;
- Visa or immigration status assistance; and
- Any other remedy that can be tailored to the involved individuals (students or employees) to achieve the goals of this policy.

B. Emergency Removal and Administrative Leave

Where the report under this policy poses a substantial and immediate threat of harm to the safety or well-being of an individual or members of the campus community, or to the performance of normal college functions, the college may remove a Respondent from the college on a temporary, emergency basis. Pending resolution of the report, the individual may be denied access to campus, campus facilities, and/or all other college activities or privileges for which the individual might otherwise be eligible. Due to the potentially significant impact of this action, the decision to remove a Respondent is not taken lightly. Emergency removal of students will occur only after an individualized safety and risk analysis has determined that an immediate threat to the physical health and safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the [Bates Care Collaborative \(BCC\)](#) using its standard objective violence risk assessment procedures. If

this analysis suggests it is appropriate to remove an individual, the Title IX Coordinator will forward a recommendation for removal to either the Dean of Students who will make the final determination for all students or the Assistant Vice President of Human Resources (AVP for HR) who will make the final determination for all employees.

In all cases in which an emergency removal is imposed, the student or employee will be given notice of the action, including a summary of the basis for the emergency removal, and the option to request to meet with the Title IX Coordinator and Dean of Students/AVP for HR prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be considered waived and the removal will be imposed. A student Respondent may be accompanied by an Advisor of their choice when attending this show cause meeting. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

The Title IX Coordinator in coordination with the Dean of Students or AVP for HR has discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include dismissal or termination.

The college will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. These actions could include, but are not limited to:

- removing a student from a residence hall;
- temporarily re-assigning an employee;
- restricting a student's or employee's access to or use of facilities or equipment;
- allowing a student to withdraw or take grades of incomplete without financial penalty;
- authorizing an administrative leave; and
- suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate athletics.

Whenever possible, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the party.

Nothing in this policy limits the college from placing an employee on paid Administrative Leave.

X. Initial Review and Resolution

- A. Overview of Resolution Options
- B. Role of the Title IX Coordinator and Title IX Team in Resolution Process
- C. Initial Review
 - a. Violence Risk Assessment
 - b. Title IX Dismissal
 - 1. Mandatory Dismissal Criteria
 - 2. Discretionary Dismissal Criteria
- D. Administrative Resolution
- E. Informal Resolution
 - a. Alternative Resolution
 - b. Acceptance of Responsibility by Respondent
 - c. Negotiated Resolution
- F. Formal Resolution
 - a. Investigation
 - b. Hearing
 - c. Appeal

A. Overview of Resolution Options

Upon receipt of a report of bias, harassment, discrimination, or retaliation, including sexual violence, racism, homophobia, and transphobia, the Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator (“Title IX Coordinator”) will reach out to the Complainant to offer supportive measures and to inform them of how to file a formal complaint.¹⁵ The initial steps for resolution of any report of harassment will involve the same stages: initial assessment, implementation of supportive measures, followed by an administrative response, an informal resolution option, or a formal investigation and resolution process as appropriate.

The Title IX Coordinator, in consultation with members of the Title IX Team or Bias Response Team as appropriate, will conduct an initial review of the report. The goal of this review is to provide an integrated and coordinated response to reports of harassment. The review will consider the nature of the report, the safety of the individuals involved and of the campus community, and the Complainant’s expressed preference for resolution. Upon completion of the initial review, the Title IX Coordinator will determine the next steps in the resolution of the report. In most circumstances, the college will defer to the wishes of the Complainant on how to proceed.¹⁶

¹⁵ Throughout the remainder of this section, the terms “harassment” and “discrimination” are used as umbrella terms to capture all forms of bias, harassment, and discrimination, including those specifically named here.

¹⁶ For more information on the circumstances that necessitate the college taking action without the support of the Complainant, see Section VIII.J.

If an informal, non-disciplinary resolution is desired, the Title IX Coordinator will work with the Complainant to determine and implement an administrative response to a) support the Complainant and restore their access to the college's education program and activities; b) stop any harassment or discrimination that may be occurring; and c) prevent the reoccurrence of the alleged behavior wherever possible. When informal, administrative action is taken, there is no determination of whether a policy violation has occurred.

If a formal disciplinary resolution process is desired and appropriate, an investigation will be initiated. The goal of the investigation is to gather all relevant facts. Upon completion of the investigation, a hearing will be held to determine if there is a preponderance of evidence that a violation of the policy occurred. If the Respondent is found responsible for a policy violation, disciplinary sanctions will be implemented.

Detailed procedures for resolving formal complaints are outlined in [Sections XI](#) and [XII](#).

B. Role of the Title IX Coordinator and Title IX Team in Resolution Process

The President of Bates College has designated Gwen Lexow, Associate Vice President for Title IX and Civil Rights Compliance, to serve as the college's Title IX Coordinator (hereafter, "Title IX Coordinator"). The Title IX Coordinator oversees the college's centralized review and resolution of all reports of bias, harassment, and discrimination, including racism, homophobia, sexual harassment, sexual assault, stalking, domestic and dating violence. The Title IX Coordinator is supported by Title IX Deputy Coordinators. As neutral parties, the Title IX Coordinator and Deputies ensure the following:

- any party involved in the reporting or resolution of a report is treated with respect, dignity, and fairness;
- parties are afforded their rights under this policy;
- all appropriate resolution procedures are followed;
- all parties receive timely and clear communication regarding the resolution of the report; and
- parties receive appropriate supportive measures to assist them with their education while the report is resolved.

C. Initial Review

Following receipt of a report of an alleged violation of this policy, the Title IX Coordinator will engage in an initial assessment, typically within one to five business days.¹⁷

The Initial Review will proceed to the point where there is a clear understanding of the allegations and a reasonable assessment of the safety of the individuals involved and of the campus community can be made. Should the college determine there is any risk of harm to individuals or to the campus community, it will take steps necessary to address those risks.

¹⁷ All references to the Title IX Coordinator's duties include the understanding that their designee may complete those duties as well.

As part of the Initial Review, Title IX Coordinator will:

- Assess the nature and circumstances of the allegation(s);
- Assess whether there are any immediate risks to the safety of the Complainant and the broader campus community that need to be addressed;
- Notify the Complainant of the following:
 - how to file a formal complaint;
 - their right to contact law enforcement and seek medical treatment;
 - their right to have an Advisor;
 - the importance of preservation of evidence;
 - the availability of on and off campus resources;
 - the range of available supportive and safety measures;
 - the range of the procedural options, including informal remedies-based resolution and formal resolution; and
 - the college's policy prohibiting retaliation;
- Discuss with the Complainant their expressed preference for the manner of resolution and if there are any barriers to proceeding;
- Assess whether there is evidence of an on-going pattern of behavior or other similar conduct by Respondent;
- Notify Campus Safety to record the report as part of the college's daily crime log, as applicable; and
- Assess the reported conduct for the need for a timely warning under the Clery Act.

If a Complainant wishes to file a formal complaint, the Title IX Coordinator will assist them in doing so and will work with them to ensure the complaint is filed correctly. If a Complainant does not wish to file a complaint at this time, the Title IX Coordinator will determine whether the Coordinator needs to initiate a complaint because a violence risk assessment indicates a compelling threat to the health and/or safety of any other individual or the broader community. Initiating a complaint without the support of the Complainant will be done only when circumstances are such that it is necessary to protect the broader community or other compelling reason.

Once a formal complaint is filed the Complainant may decide whether they prefer informal or formal resolution of the complaint. If the Complainant prefers an informal resolution option, the Title IX Coordinator will assess whether the complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in informal resolution.

If the Complainant desires formal resolution of the complaint, including an investigation and hearing, the Title IX Coordinator will determine if the misconduct alleged falls within the scope of the 2020 Title IX regulations. If it does, the Title IX Coordinator will initiate the formal investigation and resolution process, directing the investigation to address one or more of the following: a single incident of prohibited behavior, a pattern of alleged misconduct, and/or a culture/climate issue, based on the nature of the complaint. If the Title IX Coordinator determines that the 2020 Title IX regulations do not apply, they will "dismiss" that aspect of the

complaint. They will then assess which resolution process is applicable and refer the matter to that process accordingly.¹⁸ Please note that dismissing a complaint under the 2020 Title IX regulations is solely a procedural requirement under the regulations, and does not limit Bates's authority to address a complaint with an appropriate process and remedies.

When the Complainant prefers a supportive or administrative response (with or without the filing of an official complaint), the Title IX Coordinator will work with the Complainant to identify their wishes, assess the request, and implement the requests accordingly. No Formal Resolution Process is initiated, though the Complainant can elect to initiate one at a later date, if desired.

a. Violence Risk Assessment

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Bates Care Collaborative (BCC) as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- assessment of the need for emergency removal of a Respondent on the basis of an immediate threat to the physical health and/or safety of another person or the broader community;
- whether the Title IX Coordinator should pursue a formal complaint absent a willing/able Complainant;
- whether the scope of the investigation should include a single incident and/or a pattern of misconduct, and/or a climate of hostility or harassment;
- to help identify potential predatory conduct;
- to help assess and identify grooming behaviors;
- assessment of whether it is reasonable to attempt to resolve a complaint through Informal Resolution, and if so, what approach may be most successful;
- whether to permit a voluntary withdrawal by the Respondent;
- whether to impose transcript notation on the Respondent's official transcript, or otherwise alert another institution of the allegations against the Respondent;
- assessment of appropriate sanctions and remedies (to be applied post-hearing); and/or
- whether a Clery Act Timely Warning or other protective measure, such as a No Contact Order or Trespass order is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or

¹⁸ All complaints that include allegations of Sexual Harassment (including sexual assault, sexual harassment, domestic violence, dating violence, and stalking) will be resolved using Process A. Complaints that allege other prohibited conduct under this policy involving Respondents who are students will typically follow Process B. Complaints that allege other prohibited conduct involving Respondents who are employees typically will be resolved using the procedures outlined in the Employee and/or Faculty Handbooks as applicable. The college reserves the right to determine which process is most appropriate. The Title IX Coordinator will make this determination based upon the nature of the allegation(s).

conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted or predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other Bates Care Collaborative (BCC) team members. A VRA authorized by the Title IX Coordinator will occur in collaboration with the BCC. Where a VRA is required by the Title IX Coordinator, refusal to cooperate in a VRA by a Respondent may result in disciplinary action for failure to comply with a college official or disciplinary process within the appropriate student or employee conduct process.

b. Title IX Dismissal

The 2020 federal Title IX Regulations (34 CFR§106.45) require Title IX Coordinators to dismiss a formal complaint under certain conditions. The Title IX Coordinator is also granted the latitude to dismiss a complaint for Title IX purposes based on additional criteria. These dismissals are referred to as mandatory and discretionary dismissals and may be strictly procedural. Upon any dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. Further information about next steps in the resolution of the complaint will be included in any dismissal notice. Dismissal decisions, including decisions not to dismiss, are appealable by any party under the procedures for appeal below.

1. Mandatory Dismissal Criteria

The Title IX Coordinator must dismiss a formal complaint or any allegations therein if, at any time during the initial review, investigation, or hearing, it is determined one or more of the following:

- the conduct alleged in the formal complaint would not constitute Sexual Harassment as defined in [Section V](#), even if proven;
- the alleged conduct did not occur in a Bates College educational program or activity and/or the college did/does not have control over the Respondent;
- the conduct did not occur against a person in the United States; and
- at the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in a Bates College education program or activity.

2. Discretionary Dismissal Criteria

The Title IX Coordinator may dismiss a formal complaint or any allegations therein if, at any time during the initial review, investigation, or hearing:

- a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;¹⁹ or
- the Respondent is no longer enrolled in or employed by the college; or
- specific circumstances prevent the college from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

D. Administrative Resolution

Administrative resolution is a remedies-based, non-judicial approach designed to address the needs of the Complainant and/or to eliminate the offending conduct or any hostile environment without taking disciplinary action against a Respondent. Complainants who do not wish to file a formal complaint may request administrative interventions in conjunction with the supportive measures the college offers.

Where the Initial Review concludes that Administrative Resolution may be appropriate, the college will take immediate and corrective action designed to maximize the Complainant's access to the educational activities at the college and to eliminate a hostile environment. These actions may include any of the supportive or protective measures detailed in [Section IX](#). Other actions might include implementation of a No Contact Order, targeted or broad-based educational programming or training, direct conversation with the Respondent and/or indirect action by the Title IX Coordinator or other administrator. The Title IX Coordinator will work with the Complainant to determine how to proceed. The goal of Administrative Resolution is to provide the Complainant with as much control over the process as possible while still addressing the offending behavior. Depending on the actions desired, it may be possible to maintain the anonymity of the Complainant.

Any actions taken as a result of Administrative Resolution must be non-disciplinary and non-punitive. There is no determination of whether a policy violation has occurred.

Complainants who request Administrative Resolution retain the right to file a formal complaint and request Informal or Formal Resolution of that complaint at a later date.

E. Informal Resolution

Informal Resolution provides the parties with an opportunity to reach a mutually-agreeable resolution of a complaint without a full formal grievance process. Informal Resolution may be

¹⁹ A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

requested by either party after the filing of a formal complaint, but prior to the start of the hearing. Informal Resolution may take three different forms -- resolution through an Alternative Resolution method, acceptance of responsibility by the Respondent, and negotiated resolution by the Title IX Coordinator. Each of the forms is described below.

Upon receiving notice that either party would like to pursue Informal Resolution, the Title IX Coordinator will do the following:

- Confirm the appropriateness of Informal Resolution, based upon the Initial Review;
- Determine which form(s) of Informal Resolution may be most appropriate;
- Notify parties of the following:
 - the request to pursue Informal Resolution;
 - that participation in Informal Resolution is strictly voluntary;
 - the nature of the allegations and the sanctions and remedies that may result from participating in the process;
 - their right to decline Informal Resolution and/or to stop the process at any time once it has begun;
 - their right to pursue Formal Resolution at any time prior to reaching an agreement;
 - their right to an Advisor of their choosing, as applicable;
 - information regarding recordkeeping related to Informal Resolution, including what information will be maintained or shared related to the complaint.
- Obtain written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding.

Results of successful Informal Resolution are not appealable. Failure to abide by the resolution agreement may result in appropriate responsive or disciplinary actions.

a. Alternative Resolution

Alternative Resolution is an informal resolution mechanism, such as mediation or restorative practices, by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent prior to the use of an Alternative Resolution mechanism.

When deciding whether Alternative Resolution is appropriate and which form of Alternative Resolution may be most successful for the parties, the Title IX Coordinator will consider the following:

- parties' amenability to Alternative Resolution and motivation to participate;
- the goals or desired outcomes of the parties;
- the likelihood of potential resolution, taking into account any power dynamics between the parties and the complexity of the complaint;
- results of any violence risk assessment/ongoing risk analysis, including whether emergency removal is necessary;

- prior disciplinary history of the parties;
- the relationship between the parties and their ability to engage in Alternative Resolution with each other;
- the skill of the Alternative Resolution facilitator with this type of allegation; and
- whether adequate resources exist to invest in Alternative Resolution (time, staff, etc.).

The ultimate determination of whether Alternative Resolution is available and whether it has been successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive and/or disciplinary actions. Results of complaints resolved by Alternative Resolution are not appealable.

b. Acceptance of Responsibility by Respondent

At any point during the resolution process, the Respondent may choose to accept responsibility for all or part of the alleged misconduct. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the resolution process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is appropriate, the Title IX Coordinator will determine whether all parties and the college are able to agree on the responsibility, sanctions, and/or remedies. If agreement can be reached, the Title IX Coordinator will provide written notice that the Respondent is responsible for a violation(s) of this policy and will implement the agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary. These sanctions or responsive actions will be implemented promptly in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on the terms of resolution, the Formal Resolution Process may be initiated or resumed at the same point where it was paused.

c. Negotiated Resolution

With the consent of the parties, the Title IX Coordinator may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the college. If an agreement can be reached, the Title IX Coordinator will provide written notice of the terms of the agreement and will oversee the parties' compliance with those terms. The Title IX Coordinator maintains records of any resolution that is reached, and failure to

abide by the resolution agreement may result in appropriate responsive and/or disciplinary actions. Negotiated Resolutions are not appealable.

F. Formal Resolution

Formal Resolution is the formal grievance process that includes a fact-gathering investigation into the complaint, a determination hearing, and opportunities for appeal. The goal of Formal Resolution is to determine whether the Respondent is responsible for a violation of this policy. If the Respondent is found responsible for a policy violation, disciplinary sanctions and/or remedial actions will also be determined.

The formal grievance procedures are guided by the principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under this policy. All grievance procedures used to resolve Sexual Harassment and other Title IX allegations are in compliance with the 2020 federal regulations regarding the handling of Sexual Harassment under Title IX.

The specific procedures for Formal Resolution are detailed in [Sections XI](#) and [XII](#). Below is a summary of the major components of the Formal Resolution process.

a. Investigation

Where the Initial Review concludes that a policy violation may have occurred and disciplinary action may be appropriate, the college may initiate a formal investigation. The college will designate one or more a trained Investigator(s) who has specific training and experience investigating allegations of discrimination, harassment, or retaliation.²⁰ The Investigator(s) may be employees of the college, external consultants engaged to assist the college in its fact gathering, or any combination thereof. Any Investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The Investigator(s) will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the Respondent, and any witnesses. The Investigator(s) will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. In gathering the facts, the Investigator(s) may consider prior allegations of similar conduct by the Respondent to the extent such information is relevant.

As part of the investigation, the college will provide an opportunity for the parties to suggest witnesses and to present other evidence. The Investigator(s) will provide periodic updates to the Title IX Coordinator regarding the investigation timeline and any emerging needs for the Complainant or Respondent. Throughout the investigation and prior to the hearing, the parties will have opportunities to review all relevant evidence and the investigation report.

²⁰ More information regarding the training of Investigators can be found in Section XI.A.d.

The investigation is intended to provide a fair and reliable gathering of the facts. It will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. As described in [Section IV](#), the investigation will be conducted in a manner that is respectful of individual privacy concerns.

The college will seek to complete the initial investigation within 60 (sixty) calendar days of initiating the investigation. This time frame may be extended depending on the complexity of the circumstances of each case and the impact of the academic calendar.

b. Hearing

Upon completion of the investigation, a determination hearing will be scheduled, provided the complaint is not resolved through Informal Resolution. The goal of this hearing is to provide the parties with an opportunity to be heard by one or more impartial decision-makers. After the presentation of all evidence, the Hearing Officer(s) will determine whether the Respondent is responsible for a violation of this policy based upon a preponderance of evidence and, if so, appropriate sanctions and/or remedies.

At the discretion of the Title IX Coordinator, the college will designate one or more Hearing Officer(s) to preside over the hearing. The Hearing Officer(s) may be employees of the college, external consultants engaged to assist the college in its resolution of the complaint, or a combination thereof. Any Hearing Officer chosen to conduct the hearing must be impartial and free of any conflict of interest. In all cases, these individuals will have received specific training related to resolution of allegations of discrimination, harassment, or retaliation.²¹

The Hearing Officer(s) will conduct the hearing following the procedures outlined in [Sections XI](#) and [XII](#). These procedures provide the Complainant and the Respondent with opportunities to be heard and to challenge the evidence presented by and credibility of the other party. Upon a finding of responsibility, the parties will be able to submit an impact statement for the Hearing Officer(s) to consider when determining appropriate sanctions. The Hearing Officer(s) will also consider the prior conduct history of the Respondent when determining sanctions.

After the completion of the hearing, the Complainant and Respondent will receive a written Notice of the Outcome of the hearing including the final determination, the rationale for the determination, and any sanctions. The Notice will also include relevant procedures for appealing the determination.

The college seeks to provide a fair and reliable determination of whether a policy violation has occurred. The hearing will be thorough, impartial, and fair, and all individuals will be treated by the Hearing Officer(s) with appropriate sensitivity and respect. As described in [Section IV](#), the hearing will be conducted in a manner that is respectful of individual privacy concerns.

²¹ More information regarding the training of Hearing Officers can be found in Section XI.A.d.

c. Appeal

Both the Complainant and the Respondent are afforded opportunities to appeal on limited grounds. If an appeal meets the limited grounds, the non-appealing party will be notified of the appeal and have an opportunity to respond to it. Appeals are not intended to be a full re-hearing of the allegations or evidence.

At the discretion of the Title IX Coordinator, the college will designate either one or more Appellate Officer(s) to review and rule on the appeal. The Appellate Officer(s) may be employees of the college, external consultants engaged to assist the college in its resolution of the complaint, or a combination thereof. Any Appellate Officer chosen to hear the appeal must be impartial and free of any conflict of interest. In all cases, these individuals will have received specific training related to resolution of allegations of discrimination, harassment, or retaliation.²²

The Appellate Officer(s) will gather and review all relevant information prior to making a decision on appeal. Once a decision on appeal has been made, a Notice of Appeal Outcome will be sent to all parties. This Notice will specify the findings and rationale for each decision, as well as next steps in the resolution process, if any.

²² More information regarding the training of Appellate Officers can be found in Section XI.A.d.

Section XI. Procedures for Resolving Sexual Harassment Complaints (Process A)

- a. Preliminary Concerns
 - a. Advisors
 - 1. The Role of the Advisor
 - 2. The Role of the Advisor in Process A Hearing
 - 3. Sharing Information with the Advisor
 - b. Scheduling of Meetings
 - c. Effect of Pending Complaint on Responding Party
 - d. Appointment and Training of Individuals Involved in Resolution Process
 - e. Agreements Not Recognized by the College
 - f. Time Frames
 - g. Communications
 - h. Standard of Proof
 - i. Effect of Non-Participation of Parties
 - j. The Role and Participation of Witnesses
 - k. Complaints with Multiple Respondents or Complainants
- b. Initiating a Report
- c. Initial Review
- d. Informal Resolution
- e. Formal Resolution Procedures
 - a. Notice of Investigation and Allegations
 - b. Investigation Procedures
 - 1. Investigator(s)
 - 2. Investigation Process
 - 3. Investigation Report
 - c. Hearing Procedures
 - 1. Hearing Officer(s)
 - 2. Evidentiary Considerations in the Hearing
 - 3. Scheduling Considerations and Notice of Hearing
 - 4. Alternative Participation Options
 - 5. Pre-Hearing Preparation
 - 6. Pre-Hearing Meetings
 - 7. Hearing Logistics
 - 8. Order of Hearing
 - d. Notice of Outcome
 - e. Sanctions and Corrective Actions
 - f. Appeals
 - 1. Appellate Officer(s)
 - 2. Grounds for Appeal
 - 3. Review of Appeal and Notice of Appeal Outcome
 - 4. Sanctions Status During the Appeal
 - 5. Appeal Considerations

- g. Long Term Remedies and Other Actions
- h. Failure to Comply with Sanctions and/or Remedies

Bates College has established the Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy that articulates the college's community standards and includes definitions of prohibited conduct and key concepts. This policy also outlines the resources and reporting options available to the college community and methods of addressing cases involving all forms of bias, harassment, discrimination, and retaliation. Detailed below are the procedures used to resolve formal complaints involving allegations of Sexual Harassment as defined by this policy.

When resolving complaints under this policy using Formal Resolution, the college vests the authority to determine which resolution process to follow in the Associate Vice President for Title IX & Civil Rights Compliance/Title IX Coordinator (Title IX Coordinator).²³ This determination is based upon the nature of the allegations. Process A applies to all complaints containing allegations of Sexual Harassment, including Sexual Assault, Stalking, Domestic Violence, and Dating Violence, as defined in the policy. Whenever other policy violations are alleged, the Title IX Coordinator will determine whether the matter will be resolved using Process B (typically for all complaints involving Respondents who are students) or the provisions included in the Employee and/or Faculty Handbooks (typically for all complaints involving Respondents who are employees). The college reserves the right to use Process A for complaints that include allegations of Sexual Harassment but are required to be dismissed under Title IX. In all instances, the Title IX Coordinator will communicate with the parties which process will be used.

These procedures may also be used to address potential violations of the Student Code of Conduct or the Employee or Faculty Handbooks arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct.

Below are the detailed procedures for Process A. Process B is outlined in [Section XII](#).

A. Preliminary Concerns

a. Advisors

The Complainant and Respondent have the right to be assisted by an advisor of their choosing throughout the resolution process. An Advisor serves as a resource and support to the party through all phases of the process and may accompany their advisee to any meeting the advisee attends throughout the process. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is willing and available to serve in this capacity.

²³ The Title IX Coordinator may designate another trained individual to fulfill any of the duties assigned to them by these procedures.

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the Bates community. While the college strongly encourages parties to have an Advisor, individuals are not required to have an Advisor, except when participating in a hearing.

The college trains a pool of individuals who are willing to serve as Advisors. If a party chooses an Advisor from this pool, the Advisor will be familiar with the Bates resolution process. The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. Any advisor who is not trained by the college is encouraged to schedule a meeting with the Title IX Coordinator, or their designee, prior to attending any resolution meeting in order to discuss the college's processes and the advisor's role.

Parties should consider their choice of Advisor carefully. While a party may choose anyone to serve as their Advisor, choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Hearing Officer(s).

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. However, the parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time.

Any person who serves as an Advisor should plan to make themselves available for meetings throughout the process. Scheduling of interviews and meetings will not be significantly delayed due to the lack of availability of the Advisor. The Title IX Coordinator will make reasonable provisions to allow an Advisor who cannot attend a scheduled in-person meeting to attend that meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

1. The Role of the Advisor

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including any intake meeting or interviews. Advisors should help their advisee prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

Generally, the role of the Advisor is one of support, but not active participation. Except during questioning in a Process A hearing, the advisor may not make arguments, ask questions, or speak for a Complainant, Respondent, or third party. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee in a manner that does not disrupt the proceedings -- by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors may ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

2. The Role of the Advisor in Process A Hearing

Under the 2020 federal regulations regarding the handling of Sexual Harassment under Title IX, formal grievance procedures must include real-time questioning of the other parties and witnesses as part of the hearing procedures. This questioning must be conducted on behalf of the parties by their Advisors. The parties are not permitted to directly question each other or any witnesses. Because of this requirement, the college will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses for any Complainant or Respondent who does not have a designated Advisor for a hearing.

3. Sharing Information with the Advisor

Parties may share information related to a complaint directly with their Advisor so they may support or assist them in navigating the resolution process and presenting their case. In addition, the Complainant or Respondent may request that the Title IX Coordinator, Investigator(s), and/or Hearing Officer(s) share documentation and evidence related to resolution of the complaint with their Advisors. In order to accommodate this request, the party will be asked to provide the Title IX Coordinator with a signed consent form indicating the parameters for this release of information to the Advisor. Typically, the advisee will be copied at all written communication sent directly to the Advisor.

Should a party change Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Bates College. The college may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the college's privacy expectations.

b. Scheduling of Meetings

When participation of the Complainant, the Respondent, or a Witness is expected, that party will receive written notice of the date, time, and location of the meeting, as well as a list of the other expected participants and the purpose of the meeting.

Every effort will be made to schedule meetings in a manner that minimizes the impact on a student's academic commitments.

c. Effect of Pending Complaint on Responding Party

If a student Respondent elects to take a leave from the college after an investigation has commenced but prior to a final resolution, the college reserves the right to complete the resolution process remotely. If the student is found responsible for a policy violation, they will not be permitted to return to the college until all sanctions have been satisfied.

If a student Respondent elects to withdraw from the college prior to the resolution of a complaint, they shall have no right to apply for readmission nor will they be considered for future employment. The Admission and Human Resources Offices will be notified accordingly.

In exceptional circumstances, the Dean of Students may grant permission to apply for readmission to a withdrawing or withdrawn student. If such special permission is granted, readmission will not be automatic and may be subject to such terms and conditions as Dean of Students, in consultation with the Title IX Coordinator may deem to be appropriate.

Any employee who resigns with unresolved allegations pending is not eligible for admission or rehire with the college and the records retained by the Title IX Coordinator and Human Resources Office will reflect that status.

d. Appointment and Training of Individuals Involved in Resolution Process

The resolution process relies on both college employees and external consultants to serve in a variety of roles, including as Deputy Title IX Coordinators, Investigators, Facilitators for Informal Resolution, Hearing Officers and Hearing Facilitators, and Appellate Officers. These individuals are appointed by the Title IX Coordinator and act with independence and impartiality.

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), Hearing Officer(s), and Appellate Officer(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet all assigned individuals to ensure impartiality by confirming there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another individual will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with a Deputy Title IX Coordinator or the President.

To assist them in performing their responsibilities and in compliance with federal regulations, all individuals involved in the resolution of reports receive ongoing training on an annual basis. This training includes, but is not limited to:

- the scope of the Bates Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy and procedures;
- applicable laws, regulations, and federal regulatory guidance;
- the definitions of all offenses;
- reporting, confidentiality, and privacy requirements;
- how to implement appropriate and situation-specific remedies;
- how to uphold fairness, equity, and due process;
- how to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- implicit bias, disparate treatment, and impartiality and objectivity;
- how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes;
- how to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability;
- how to investigate in a thorough, timely, reliable, and impartial manner;
- how to weigh evidence, conduct questioning, and assess credibility;
- issues of relevance to create an investigation report that fairly summarizes relevant evidence;
- how to use any technology to be used at a live hearing;
- issues of relevance of questions and evidence;
- how to apply definitions used by the recipient with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy;
- how to render findings and generate clear, concise, evidence-based rationales;
- how to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations; and
- recordkeeping.

The materials used to train all members of the resolution team are publicly posted here: www.bates.edu/here-to-help.

e. Agreements Not Recognized by the College

Other than a judicial order, the college will not recognize agreements between the Complainant and the Respondent in which the college did not participate unless reviewed and approved by the Title IX Coordinator.

f. Time Frames

The College seeks to resolve all reports in a prompt and timely manner (60-90 business days). All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of time frames. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, the Complainant and the Respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution time frame needs to be extended for good cause, the college will provide written notice to all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Reasonable supportive measures will be implemented or continued during any delay.

g. Communications

All communications and notices required by these procedures may be made electronically, in hard copy, or in person.

h. Standard of Proof

The Hearing Officer(s) will determine whether the Respondent is responsible for a policy violation by the preponderance of the evidence standard which is whether the information provided supports a finding that it is “more likely than not” that the Respondent is responsible for the alleged violation.

Throughout the resolution process, the college operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by a preponderance of the evidence.

i. Effect of Non-Participation of Parties

If the Respondent Party fails to meet and cooperate with the Title IX Coordinator, the Investigator(s), the Hearing Officer(s), or any other person during this process, the resolution of the complaint will proceed without input from the Respondent.

The Complainant retains all rights of the Complainant under this policy irrespective of their level of participation. When the Complainant chooses not to participate or withdraws participation, their Advisor may serve as a proxy throughout the process to ensure and protect their rights. If the Complainant does not designate an Advisor, one may be appointed for them.

j. The Role and Participation of Witnesses

Witnesses (as distinguished from the parties) who are Bates employees are expected to cooperate with and participate in the college's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.²⁴

Interviews for parties and all potential witnesses may take place in-person or via video conferencing or telephone. The college will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

k. Complaints with Multiple Respondents or Complainants

In formal complaints involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to resolve the allegations jointly.

However, the Title IX Coordinator may instruct that the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

Individuals may request Informal Resolution with any or all of the individuals involved, following the procedures described in Section X.E. Formal Resolution can be pursued with any of the remaining individuals.

B. Initiating a Report

Any person who has experienced an incident of bias, harassment, discrimination, or retaliation, as defined in the Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy, may file a

²⁴ See the Employee Handbook.

report with the college. Upon receiving notice of that report, the Title IX Coordinator will contact the Complainant to provide information regarding resolution options and how to file a formal complaint and to offer supportive and safety measures. Individuals filing reports may request that the college initiate its Formal Resolution process, an Informal Resolution option, or request administrative assistance. Individuals may also request that the college take no action beyond providing supportive measures. Whenever possible the Title IX Coordinator will defer to the wishes of the Complainant. In the rare situations where the college must act to provide for the safety of the community and/or take action to fulfill its obligation to foster a harassment-free working and learning environment, the Title IX Coordinator will communicate this decision with the Complainant.

At the time a report is made, a Complainant does not have to decide whether or not to request disciplinary action. Choosing to make a report and deciding how to proceed after making the report can be a process that occurs over time. To the extent possible, the college will respect an individual's autonomy in making these decisions and provide support that will assist each individual in making that determination.

C. Initial Review

Upon receipt of notice or a complaint, the Title IX Coordinator will conduct an initial review as described in Section X.C. As part of the Initial Review, the Title IX Coordinator will determine:

- whether any protective measures need to be implemented to ensure the safety of the Complainant and/or the community;
- whether there is a compelling reason for the Title IX Coordinator to file a complaint if the Complainant does not wish to do so (See Section X.J.);
- whether Informal Resolution is appropriate and, if so, what method would be most appropriate;
- whether the complaint requires “dismissal” under Title IX (See Section X.C.b.); and
- whether Formal Resolution Process A or B or provisions in the Employee or Faculty Handbooks will be used to resolve a complaint, if a formal grievance procedure is being initiated.

D. Informal Resolution

Informal resolution provides the parties with an opportunity to reach a mutually-agreeable resolution of a complaint without a full formal grievance process. Informal resolution may be requested by either party at any time after the filing of a formal complaint, but prior to the start of the hearing. Informal resolution may take three different forms -- resolution through an Alternative Resolution method, acceptance of responsibility by the Respondent, and negotiated resolution by the Title IX Coordinator. When Informal Resolution is requested the Title IX Coordinator will evaluate the appropriateness of using Informal Resolution based upon the criteria outlined in Section X.E.

Participation in Informal Resolution is strictly voluntary, and the Complainant or Respondent can end Informal Resolution at any time. If the parties are not able to reach a successful resolution via Informal Resolution, a Formal Resolution process may be initiated or resumed.

Parties are not required to attempt Informal Resolution prior to initiating the Formal Resolution process. (See Section X.E. for more detailed information regarding Informal Resolution.)

E. Formal Resolution

Formal Resolution is the formal grievance process that includes a fact-gathering investigation into the complaint, a determination hearing, and opportunities for appeal. The goal of Formal Resolution is to determine whether the Respondent is responsible for a violation of this policy. If the Respondent is found responsible for a policy violation, disciplinary sanctions and/or remedial actions will also be determined. Below are the detailed procedures used to resolve allegations of Sexual Harassment (Process A).

a. Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (“the Notice”) to the Respondent upon commencement of the Formal Resolution Process. This Notice facilitates the Respondent’s ability to prepare for the initial interview and to identify and choose an Advisor to accompany them. The Notice is also copied to the Complainant, who is to be given advance notice of when the Notice will be delivered to the Respondent.

As required by the 2020 Federal Regulations under Title IX, the Notice will include:

- a meaningful summary of all of allegations, including:
 - the identity of the involved parties (if known);
 - the precise misconduct being alleged;
 - the date and location of the alleged incident(s) (if known);
- the specific policies implicated;
- a description of the applicable procedures;
- the potential sanctions/responsive actions that could result from a finding of responsibility;
- information on:
 - the right of each party to have an Advisor of their choosing;
 - the confidentiality of the process;
 - the process for request disability accommodations during the resolution process;
 - availability of support resources and supportive measures; and
 - the need to preserve any evidence that is directly related to the allegations;
- a statement regarding each of the following items:

- determinations of responsibility are made at the conclusion of the process and that the college presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination;
- the parties opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- the college's policy on retaliation;
- the college's policy prohibition on knowingly making false statements, including knowingly submitting false information during the resolution process;
- a link to the college's How We Can Help brochure; and
- the name(s) of the Investigator(s), along with a process to identify any conflict of interest that the Investigator(s) may have.

Amendments and updates to the Notice may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, emailed to the parties' Bates-issued email, delivered electronically via a secure Bates-issued account on a web-based portal, or, in rare circumstance, mailed to a physical address. If a party does not have a Bates-issued email address/account, a personal email address may be used. Once mailed, emailed, posted, and/or received in-person, notice will be presumptively delivered.

b. Investigation Procedures

1. Investigator(s)

The Title IX Coordinator, in consultation with Title IX Team members as appropriate, will designate one or more Investigator(s) of their choosing, who has specific training and experience investigating allegations of bias, harassment, and discrimination, to conduct a thorough, impartial, and fair investigation. These trained Investigators may be employees of the college, external consultants engaged to assist the college in its fact gathering, or a combination thereof. Any Investigator(s) chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigation is intended to provide a fair and reliable gathering of the facts. All individuals in the investigation, including the Complainant, the Respondent, and any third-party witnesses, will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the Investigator(s) will safeguard the privacy of the individuals involved.

The parties will be given the names of the Investigator(s) as part of the Notice of Investigation. All objections to any Investigator must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and prior to the start of the investigation. An Investigator will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial investigation of the allegation(s). Should a concern regarding whether an Investigator is impartial arise after the investigation has begun, the party should bring it to the attention of the Title IX Coordinator immediately.

2. Investigation Process

The Investigator(s) will coordinate the gathering of information from the Complainant, the Respondent, and other individuals or entities with relevant information regarding the complaint, including evidence which supports that the Respondent is responsible for a policy violation and evidence which supports that the Respondent did not engage a policy violation.

All parties will have a full and fair opportunity to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all the evidence on the record. All available evidence should be presented to the Investigator(s) prior to the conclusion of the investigation. Evidence that was available, but not presented at the time of the investigation, may not be admissible during the hearing.

The investigation phase will typically be completed within sixty (60) calendar days. Given the availability of witnesses or complexity of the circumstances, this time frame may be extended as necessary to ensure the integrity and completeness of the investigation.

The Investigator(s) will provide periodic updates to the Title IX Coordinator, particularly regarding any emerging needs that would require additional protective or supportive measures for the Complainant or Respondent and regarding any adjustments to estimated timelines.

The Investigator(s) will also work with the Title IX Coordinator if in the course of the investigation new allegations emerge and the Notice needs to be amended or if new information suggests the complaint should be dismissed under Title IX.

The Investigator(s) will gather information using any combination of the following:

2.1 Document/Records Review

In addition to reviewing any documents submitted by the Complainant and the Respondent, the Investigator(s) will try to obtain such other physical or medical evidence relevant to the investigation as the Investigator(s) determine, in their judgment, to be necessary, including but not limited to documents, police records, electronic or other records of communications between the parties or witnesses, video or audio recordings, records or other relevant information. In obtaining such evidence, the Investigator(s) will comply with applicable laws and college policies.

2.2 Site Visits

The Investigator(s) may visit relevant sites or locations and record observations through written or photographic documentation.

2.3 Complainant and Respondent Interviews

The Investigator(s) will interview the Complainant and the Respondent separately and may interview one or both more than once as necessary. The Complainant and the Respondent may be accompanied by their respective Advisors. Parties will have the opportunity to review and verify the Investigator(s)' summary of the relevant evidence/testimony from their respective interviews.

2.4 Witness Interviews

The Investigator(s) will make a good faith effort to contact and interview any witnesses identified by the parties or in the documentation, including those no longer at the college. The Investigator(s) may also interview any other individual they find to be potentially relevant to the allegations of the report. Witnesses will have the opportunity to review and verify the Investigator(s)' summary of the relevant evidence/testimony from their respective interviews.

The Investigator(s) will inform each witness or other individual interviewed that they are prohibited from retaliating against the Complainant and the Respondent or other witnesses.

Prior to the completion of the investigation the Investigator(s) will provide the Complainant and the Respondent with a list of Witnesses interviewed.

2.5 Experts

The Investigator(s) may contact any expert the Investigator(s) determine is necessary to ascertain the facts related to the report. An expert witness may be contacted for an informal consultation or for a professional opinion regarding information learned from the investigation.

2.6 Prior Sexual History

In general, in a case where the Respondent raises consent as a defense, any prior consensual relationship between the parties may be deemed relevant to assess the manner and nature of communications between the parties, but is not necessarily determinative. As noted in [Section VI](#), a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

Generally, the Complainant's sexual predisposition or prior sexual history will not be considered relevant to an investigation, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

3. Investigation Report

At the conclusion of the investigation, the Investigator(s) will prepare a written investigation report fully summarizing the relevant facts determined through the investigation, addressing all relevant evidence and referencing any supporting documentation or statements. In preparing the report, the Investigator(s) will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation.

The investigation report will include as appendices summaries and/or transcripts of interviews with the Complainant, Respondent, Witnesses, experts, and any other individuals with relevant information, photographs of relevant sites or physical evidence, electronic records, forensic evidence, and other relevant evidence collected.

While the Investigator(s) will gather, assess, and synthesize evidence, they will not make any conclusions regarding whether the Respondent is responsible for a policy violation.

3.1 Review and Comment Period

Before the report is finalized, the Complainant and the Respondent will be given the opportunity to review a copy of the draft of the investigation report, as well as an opportunity to inspect and review all of the evidence obtained as part of the

investigation that is directly related to the reported misconduct, including evidence upon which college does not intend to rely in reaching a determination.

The Complainant and the Respondent will have a ten (10) business day review and comment period to respond in writing to the report and evidence. Upon receipt of any additional information by the Complainant and the Respondent, or after the ten (10) day comment period has lapsed without comment, the Investigator(s) will attempt to resolve any remaining questions or concerns.

The Investigator(s) may elect to share the responses between the parties for additional comment or conduct limited follow-up interviews. The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period. Similarly, they should include written responses to comments that do not result in changes to the report.

The finalized report will be submitted to the Title IX Coordinator. The Title IX Coordinator will certify that the report is complete and meets the requirements under this policy. Reports that are not complete or do not meet the requirements under this policy will be returned to the Investigator(s) so they may incorporate any relevant feedback.

3.2 Distribution to Parties

Once the investigation report is certified by the Title IX Coordinator, the Title IX Coordinator will provide the Complainant and the Respondent with a finalized copy of the investigative report through secure electronic transmission or hard copy and will inform both parties of the tentative date for the hearing, which will be scheduled no earlier than ten (10) business days from the distribution of the final report.

The parties will also be provided with a file of any directly related evidence that was not included in the report and other relevant information collected during the investigation, including the summaries of statements of the other party(s) and any witnesses.

The Complainant and the Respondent maintain the right to request Informal Resolution after the receipt of the final investigation report and prior to the hearing. This includes the Respondent's right to accept responsibility for the alleged policy violations. Requests for Informal Resolution will be evaluated as described in Section X.E.

c. Hearing Procedures

After the investigative report has been finalized, and provided the complaint has not been resolved successfully through Informal Resolution, the resolution process will proceed to a hearing. The goal of this hearing is to provide the parties with an opportunity to be heard by one or more impartial decision-maker(s). After the presentation of all evidence, the Hearing Officer(s) will determine whether the Respondent is responsible for a violation of this policy based upon a preponderance of evidence and, if so, appropriate sanctions and/or remedies.

1. Hearing Officer(s)

At the discretion of the Title IX Coordinator, the college will designate one or more Hearing Officer(s) to preside over the hearing. The Hearing Officer(s) may be employees of the college, external consultants engaged to assist the college in its resolution of the complaint, or any combination thereof. The Title IX Coordinator will also designate one of these individuals as the Chair who oversees the hearing. Any Hearing Officer chosen to conduct the hearing must be impartial and free of any conflict of interest. Hearing Officer(s) will not have any previous involvement in the investigation of the complaint. In all cases, these individuals will have received specific training related to the resolution of allegations of discrimination, harassment, or retaliation.

The Title IX Coordinator may not serve as a Hearing Officer but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. If the Title IX Coordinator is unavailable to serve as an administrative facilitator, a designee may fulfill this role.

The college seeks to provide the Complainant and the Respondent a fair and reliable opportunity to be heard and to present and challenge evidence and its credibility. All individuals will be treated by the Hearing Officer(s) with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the Hearing Officer(s) will safeguard the privacy of the individuals involved.

The parties will be given the names of the Hearing Officer(s) as part of the Notice of Hearing. All objections to any Hearing Officer must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than three (3) days prior to the hearing. Hearing Officers will only be removed if the Title IX Coordinator

concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

2. Evidentiary Considerations in the Hearing

Any evidence that the Hearing Officer(s) determine is relevant and credible may be considered. However, the hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; or 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility for a policy violation. This information is only considered at the sanction stage of the process, and is not shared until then.

Each of the parties may submit a written impact statement prior to the hearing for the consideration of the Hearing Officer(s) at the sanction stage of the process after a determination of responsibility has been reached.

After post-hearing deliberation, the Hearing Officer(s) render a determination based on the preponderance of the evidence whether it is more likely than not that the Respondent violated the Policy as alleged.

3. Scheduling Considerations and Notice of Hearing

Hearing will be scheduled for no earlier than ten (10) days after the distribution of the final investigation report. The hearing will be scheduled as soon as reasonably possible, giving consideration to the availability of the Hearing Officer(s), the Complainant, the Respondent, and relevant Witnesses as well as the academic calendar.

Hearings for possible violations that occur near or after the end of an academic term and cannot be resolved prior to the end of term will typically be held as soon as possible after the end of the term. This may include times when classes are not in session in order to resolve the complaint promptly. The Complainant and the Respondent will be notified of any delays or changes in the resolution timeline.

Once the hearing date is finalized, the Title IX Coordinator will send notice of the hearing to the parties. This notice will be sent no less than ten (10) business days prior to the hearing. Once mailed, emailed or otherwise electronically delivered, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- a description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result;
- the time, date, and location of the hearing;
- information regarding any technology that will be used to facilitate the hearing;
- information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Hearing Officer(s) and parties to see and hear a party or witness answering questions;
- a list of all those who will attend the hearing, along with an invitation to object to any Hearing Officer on the basis of demonstrated bias or conflict of interest;
- information on how the hearing will be recorded and on access to the recording after the hearing;
- a statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing.
- notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the college will appoint one.
- a copy of all the materials provided to the Hearing Officer(s) about the matter, unless they have been provided already;
- an invitation to submit an impact statement pre-hearing that the Hearing Officer(s) will review during any sanction determination;
- an invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing; and
- information regarding any other logistical items to assist in the smooth administration of the hearing.

4. Alternative Participation Options

If a party cannot attend the hearing in person or prefers not to attend in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

The college reserves the right to arrange for the entire hearing to be held virtually, provided that the college will at all times ensure the privacy and integrity of the hearings.

5. Pre-Hearing Preparation

After any necessary consultation with the parties and the Hearing Chair, the Title IX Coordinator, will compile a list of the names of all of the individuals who will be participating in the hearing. The Title IX Coordinator or hearing facilitator will provide this list to the Complainant and the Respondent. The Title IX Coordinator or hearing facilitator will also confirm that the parties have received the final investigation report and all pertinent documentary evidence.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have provided documentary evidence to the Investigator(s), unless all parties and the Chair assent to the witness's participation in the hearing. The Chair also may determine whether any evidence that is first offered at the hearing is relevant and admissible. If relevant new evidence necessitates further examination, the Chair may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.

The Title IX Coordinator will give the Hearing Officer(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Hearing Officer who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Hearing Officer is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

The Title IX Coordinator will draft an outline to be used to structure the hearing. This outline will include the order of the proceedings, as well as logistical and other information, to assist in the smooth and efficient facilitation of the hearing. The Hearing Chair will receive a copy of this document prior to the hearing.

6. Pre-Hearing Meetings

The Hearing Chair may convene pre-hearing meetings with each of the parties and/or their Advisors and invite them to submit the questions they wish to ask or topics they wish to discuss at the hearing. Pre-submission of this information will allow the Chair to rule on their relevance ahead of the hearing to avoid any improper evidentiary introduction in the hearing and/or to provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration of a question's relevance based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion of questions or topics.

The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing. The parties must agree that this testimony/evidence is not in dispute nor is either party interested in challenging the credibility of this witness.

At the pre-hearing meetings, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with the Title IX Coordinator, or ask them to attend pre-hearing meetings.

The pre-hearing meetings will not be recorded. These meetings may be held in-person or remotely or may be a simple paper-only exchange. The Chair will work with the parties to establish the most appropriate format.

7. Hearing Logistics

At the hearing, the Hearing Officer(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Non-Discrimination, and Anti-Harassment.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the Complainant and the Respondent and their respective Advisors, any called Witnesses, and anyone providing authorized accommodations, interpretative, and/or assistive services.

The Chair will decide all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator, typically the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc. They may also provide information regarding hearing procedures to the Chair.

8. Order of the Hearing

8.1 Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. The Chair then conducts the hearing according to the hearing outline.

8.2 Presentation of the Final Investigation Report

The Investigator(s) will present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Hearing Officer(s) and the parties (through their Advisors). The Investigator(s) may be present during the entire hearing process, except during deliberations.

Neither the parties nor the Hearing Officer(s) will be allowed to ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigator(s), Advisors, and parties will refrain from discussion of or questions for the Investigator(s) about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

8.3 Testimony and Questioning

Once the Investigator(s) present the report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The questioning of the parties and witnesses will first be conducted by the Hearing Officer(s) and

then by the parties through their Advisors. Non-party witnesses may be present only when they are providing live testimony. They will be excused from the hearing space at the conclusion of their testimony.

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question, the proceeding will pause to allow the Chair to consider the question and determine whether it will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final determination on all questions and issues of relevance. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Hearing Officer at the hearing, the Chair may elect to address those issues, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not at issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

8.4 Refusal to Submit to Questioning and Inferences

If a party or witness chooses not to submit to questioning at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Hearing Officer(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer any questions.

If charges of policy violations other than Sexual Harassment are considered at the same hearing, the Hearing Officer(s) may consider all evidence it deems relevant to that charge, may rely on any relevant statement as long as the opportunity for questioning is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions regarding that charge.

If a party's Advisor of choice refuses to comply with the college's established rules of decorum for the hearing, the college may require the party to use a different Advisor. If a college-provided Advisor refuses to comply with the rules of decorum, the college may provide that party with a different Advisor to conduct questioning on behalf of that party.

An Advisor may not be called as a Witness to testify to what their advisee has told them during their role as an Advisor. An Advisor who is a college employee is temporarily alleviated from reporting responsibilities related to their interaction with their advisee during the resolution process.

8.5 Deliberation and Decision-making

The Hearing Officer(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question by a preponderance of evidence. If a panel is used, a simple majority vote is required to determine the finding. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Hearing Officer(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s). While the Hearing Officer(s) may consider the statements, they are not binding.

The Hearing Officer(s) will also review any pertinent conduct history provided by Title IX Coordinator and/or Student Affairs, Human Resources, and/or Dean of Faculty's Office as appropriate. After this review, the Hearing Officer(s), in consultation with other appropriate administrators, will determine the appropriate sanction(s).

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- the nature, severity of, and circumstances surrounding the violation(s);
- the Respondent's disciplinary history;
- the need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation;
- the need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation;
- the need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community;
- the impact on the parties; and

- any other information deemed relevant by the Hearing Officer(s).

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions or remedies.

This report is typically no more than five (5) pages in length and must be submitted to the Title IX Coordinator within five (5) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

d. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome letter which will include the final determination, rationale, and any applicable sanction(s) and/or remedies. Typically, the finalized Notice of Outcome will be distributed to the Complainant and Respondent within three (3) business days of receiving the Hearing Officer(s)' deliberation statement. If there is a delay in the distribution of the Notice, the Title IX Coordinator will notify the parties.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official college records, or emailed to the parties' college-issued email or delivered electronically using a secure web-based portal. Once mailed, emailed or otherwise delivered electronically, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the college from the receipt of the report to the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify:

- the finding on each alleged policy violation;
- the findings of fact that support the determination;
- conclusions regarding the application of the relevant policy to the facts at issue;

- a statement of, and rationale for, the result of each allegation to the extent the college is permitted to share such information under state or federal law;
- any sanctions issued which the college is permitted to share according to state or federal law;
- and whether any remedies will be provided to the Complainant to ensure access to the Recipient's educational or employment program or activity.

The Notice of Outcome will also include information on the relevant procedures and grounds for any available appeal options and when the results are considered by the Recipient to be final. The Complainant and Respondent will be notified of any changes that occur prior to finalization.

e. Sanctions and Corrective Actions

Students found responsible for a violation of this policy violation are subject a range of disciplinary actions including any combination of the following:

- Loss or Restriction of Privileges
 - Loss of the privilege of participating in any public function (e.g., literary, dramatic, forensic, radio, television, musical, or athletic) wherein the participant will be thought of as a representative of Bates College;
 - Loss of on campus housing and/or dining privileges;
 - Loss of the privilege of participating in social and/or ceremonial events on campus;
 - Loss of the privilege of maintaining a motor vehicle on campus;
 - A requirement that a student resign membership in or any offices, elected or appointed, held in campus organizations;
 - Loss of access to certain campus locations;
 - Loss of specific campus or Bates-sponsored employment opportunities;
 - Loss of specific academic opportunities; and
 - Loss of use of certain campus resources.
- Required Action
 - Required counseling or educational sessions;
 - Required community service or restitution hours; or
 - Required restorative action.
- Disciplinary Probation
 - Probation for a specified or indefinite period of time, with or without conditions relating to the termination of probation.
- Suspension

- Suspension for a specified or indefinite period of time, with or without conditions relating to readmission to the college.
- Dismissal from the college
- Withholding or Revocation of Degree
- Any other sanction deemed appropriate

Sanctions or responsive actions for employees who have been found responsible for a violation of this policy could include any combination of the following:

- Warning – verbal or written;
- Loss of access to certain campus facilities or functions;
- Initiation of the Performance Improvement Process;
- Enhanced supervision, observation, or review;
- Disciplinary Probation for a specified or indefinite period of time, with or without conditions relating to the termination of probation;
- Required counseling or educational sessions;
- Required restitution or restorative action;
- Loss of annual pay increase;
- Loss of supervisory or leadership responsibilities;
- Loss of specific duties;
- Demotion, reassignment of duties, or transfer;
- Suspension with or without pay, for a specified or indefinite period of time, with or without conditions relating to return to the college;
- Delay in tenure track progress;
- Termination; and
- Any other sanction deemed appropriate.

In most circumstances, all sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

f. Appeals

The Complainant or Respondent may file a request for appeal in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome. Appeals are on limited grounds and are not intended to be a full re-hearing of the allegations or evidence. If an appeal meets the limited grounds, the non-appealing party will be notified of the appeal and have an opportunity to respond to it.

1. Appellate Officer(s)

The Title IX Coordinator, the college will designate either one or more Appellate Officer(s), including a voting Chair, to review and rule on the appeal. The Appellate Officers may be employees of the college, external consultants engaged to assist the college in its resolution of the complaint, or any combination thereof. Any Appellate Officer chosen to hear the appeal must be impartial and free of any conflict of interest. No Appellate Officer will have been involved in the investigation or hearing or in hearing an appeal regarding dismissal.

2. Grounds for Appeal

The Request for Appeal will be forwarded to the Appellate Chair or their designee to determine if the request is proper for consideration. This review is not a review of the merits of the appeal, but solely a determination as to whether the request is timely and is based on one or more permissible grounds.

Appeals are limited to the following grounds:

- a procedural error that may have had a prejudicial effect upon the outcome of the matter;
- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- the Title IX Coordinator, Investigator(s), or Hearing Officer(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter; or
- the sanction imposed on the Responding Party is grossly inappropriate.

If none of the grounds outlined in the Request for Appeal meet the grounds in this policy, that request will be denied by the Appellate Chair and the parties will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this policy, then the Chair will initiate a review of the appeal based on those grounds. They will notify the other party, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Hearing Officer(s).

The other party, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Hearing Officer(s) will be provided a copy of the appeal request with the approved grounds and be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them. The Chair will forward all responses to the parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this policy by the Appellate Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, the Investigator(s) and/or Hearing Officer(s), as necessary, who will submit their responses, if any, in three (3) business days. The responses will also be circulated for review and comment by all parties.

3. Review of Appeal and Notice of Appeal Outcome

Neither party may submit any new requests for appeal after this time period. The Appellate Chair will collect any additional information needed and all documentation regarding the approved grounds for appeal and the subsequent responses will be shared with other Appellate Officers (if any). The Chair may permit the parties an opportunity to be heard by the Appellate Officer(s) and answer questions from them.

The Appellate Officer(s) will render a decision on appeal in no more than three (3) business days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance standard of evidence.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each approved ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the college is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the college is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' Bates-issued email or posted on a secure web-based portal. Once mailed, emailed or otherwise electronically delivered, and/or received in-person, notice will be presumptively delivered.

4. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be continued or reinstated, subject to the same supportive measure procedures detailed in Section IX.A.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures for a show cause meeting

on the justification for doing so must be permitted within 48 hours of implementation. For more information on Emergency Removal, see Section IX.B.

College may place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation from the college.

5. Appeal Considerations

Appeals may be granted with regard to the responsibility finding only on the basis of clear error, and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). An appeal is not an opportunity for the Appellate Officer(s) to substitute their judgment for that of the Hearing Officer(s) merely because they disagree with the finding and/or sanction(s).

In most cases, appeals are typically confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal. However, as noted, the Chair has the discretion to allow for brief oral argument.

The Appellate Officer(s) may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.

Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Hearing Officer(s) for reconsideration. In rare cases where a procedural or substantive error cannot be cured by the original Hearing Officer(s) (as in cases of bias), the Appeal Chair may order a new investigation and/or hearing with new Investigator(s) and/or Hearing Officer(s) as necessary.

When an appeal is denied, that decision is final. If an appeal results in a new hearing, the outcome of that hearing can be appealed on the grounds listed above and in accordance with these procedures.

In cases in which the appeal results in reinstatement to the college or a resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

g. Long-Term Remedies and Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator, in consultation with other appropriate administrators, may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services;
- Referral to the Employee Assistance Program;
- Education to the individual and/or the community;
- Permanent alteration of housing assignments;
- Permanent alteration of work arrangements for employees;
- Provision of campus safety escorts;
- Climate surveys;
- Policy modification and/or training;
- Provision of transportation accommodations;
- Implementation of long-term contact limitations between the parties;
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found. When no policy violation is found, the Title IX Coordinator will address any remedies owed by the college to the Respondent to ensure no effective denial of educational access.

The college will maintain the confidentiality of any long-term remedies and actions, provided the confidentiality does not impair the college's ability to provide these services.

h. Failure to Comply with Sanctions and/or Remedies

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the time frame specified by in the Notice of Outcome.

Failure to abide by the sanction(s) or remedies imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) or disciplinary action(s), including suspension, dismissal from the college, and/or termination of employment.

XII. Procedures for Resolving Non-Sexual Harassment Complaints (Process B)

- A. Preliminary Concerns
 - a. Advisors
 - 1. The Role of the Advisor
 - 2. Sharing Information with the Advisor
 - b. Scheduling of Meetings
 - c. Effect of Pending Complaint on Responding Party
 - d. Appointment and Training of Individuals Involved in Resolution Process
 - e. Agreements Not Recognized by the College
 - f. Time Frames
 - g. Communications
 - h. Standard of Proof
 - i. Effect of Non-Participation of Parties
 - j. The Role and Participation of Witnesses
 - k. Complaints with Multiple Respondents or Complainants
- B. Initiating a Report
- C. Initial Review
- D. Informal Resolution
- E. Formal Administrative Resolution
 - a. Notice of Investigation and Allegations
 - b. Investigation Procedures
 - 1. Investigator(s)
 - 2. Investigation Process
 - 3. Investigation Report
 - c. Administrative Hearing Procedures
 - 1. Hearing Officer(s)
 - 2. Evidentiary Considerations in the Hearing
 - 3. Review of Investigation Report, Response, and Evidence
 - 4. Deliberation and Decision-making
 - 5. Notice of Outcome
 - d. Sanctions
 - e. Appeals
 - 1. Appellate Officer(s)
 - 2. Grounds for Appeal
 - 3. Review of Appeal and Notice of Appeal Outcome
 - 4. Sanctions Status During the Appeal
 - 5. Appeal Considerations
 - f. Long Term Remedies and Other Actions
 - g. Failure to Comply with Sanctions and/or Remedies

Bates College has established the Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy that articulates the college's community standards and includes definitions of prohibited conduct and key concepts. This policy also outlines the resources and reporting options available to the college community and methods of addressing cases involving all forms of bias, harassment, discrimination, and retaliation. Detailed below are procedures may be used to resolve formal complaints that involve allegations of prohibited conduct other than Sexual Harassment, as defined by this policy (Process B).

When resolving complaints under this policy using Formal Resolution, the college vests the authority to determine which resolution process to follow in the Director of Title IX & Civil Rights Compliance/Title IX Coordinator (Title IX Coordinator).²⁵ This determination is based upon the nature of the allegations. Process A applies to all complaints containing allegations of Sexual Harassment, including Sexual Assault, Stalking, Domestic Violence, and Dating Violence, as defined in the policy. Whenever other policy violations are alleged, the Title IX Coordinator will determine whether the matter will be resolved using Process B or in cases where the Respondent is an employee the provisions included in the Employee or Faculty Handbooks. The college reserves the right to use Process A for complaints that include allegations of Sexual Harassment but are required to be dismissed under the 2020 federal Title IX regulations. In all instances, the Title IX Coordinator will communicate with the parties which process will be used.

These procedures may also be used to address potential violations of the Student Code of Conduct or the Employee or Faculty Handbook arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct.

Below are the detailed procedures for Process B. Process A procedures are detailed in [Section XI](#).

A. Preliminary Concerns

a. Advisors

The Complainant and Respondent have the right to be assisted by an advisor of their choosing throughout the resolution process. An Advisor serves as a resource and support to the party through all phases of the process. Advisors may accompany their advisee to any meeting the advisee attends throughout the process. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is willing and available to serve in this capacity and is not someone who will serve as a witness in the resolution process.

The college trains a pool of individuals who are willing to serve as Advisors to students. If a party chooses an Advisor from this pool, the Advisor will be familiar with the Bates resolution process. Any advisor who is not trained by the college is encouraged to schedule a meeting with the Title IX Coordinator, or their designee, prior to attending any resolution meeting in order to discuss the college's processes and the advisor's role.

²⁵ The Title IX Coordinator may designate another trained individual to fulfill any of the duties assigned to them by these procedures.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. However, the parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time.

Any person who serves as an Advisor should plan to make themselves available for meetings throughout the process. Scheduling of interviews and meetings will not be significantly delayed due to the lack of availability of the Advisor. The Title IX Coordinator will make reasonable provisions to allow an Advisor who cannot attend a scheduled in-person meeting to attend that meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

1. The Role of the Advisor

Students may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including any intake meeting or interviews. Advisors should help their advisee prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

Generally, the role of the Advisor is one of support, but not active participation. The advisor may not make arguments, ask questions, or speak for a Complainant, Respondent, or third party. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee in a manner that does not disrupt the proceedings. For longer or more involved discussions, the parties and their Advisors may ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

2. Sharing Information with the Advisor

Parties may share information related to a complaint directly with their Advisor so they may support or assist them in navigating the resolution process and presenting their case. In addition, the Complainant or Respondent may request that the Title IX Coordinator, the Investigator(s), and/or the Hearing Officer(s) share documentation and evidence related to resolution of the complaint with their Advisors. In order to accommodate this request, the party will be asked to provide the Title IX Coordinator with a signed consent form indicating the parameters for this release of information to the Advisor. Typically, this consent

will allow the Advisor to be copied on all written communication sent directly to the party.

Should a party change Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Bates College. The college may ask Advisors to sign a non-disclosure agreement regarding the information they learn during the resolution of a complaint. The college may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the college's privacy expectations.

b. Scheduling of Meetings

When participation of Complainant, Respondent, or Witness is expected, that party will receive written notice of the date, time, and location of the meeting, as well as a list of the other expected participants and the purpose of the meeting.

Every effort will be made to schedule meetings in a manner that minimizes the impact on student's academic commitments.

c. Effect of Pending Complaint on Responding Party

If a student Respondent elects to take a leave from the college after an investigation has commenced but prior to a final resolution, the college reserves the right to complete the resolution process remotely. If the student is found responsible for a policy violation, they will not be permitted to return to the college until all sanctions have been satisfied.

If a student Respondent elects to withdraw from the college prior to the resolution of a complaint, they shall have no right to apply for readmission nor will they be considered for future employment. The Admission and Human Resources Offices will be notified accordingly.

In exceptional circumstances, the Dean of Students may grant permission to apply for readmission to a withdrawing or withdrawn student. If such special permission is granted, readmission will not be automatic and may be subject to such terms and conditions as the Dean of Students, in consultation with the Title IX Coordinator, may deem to be appropriate.

Any employee resigns with unresolved allegations pending is not eligible for admission or rehire with the college and the records retained by the Title IX Coordinator and Human Resources Office will reflect that status.

d. Appointment and Training of Individuals Involved in Resolution Process

The resolution process relies on both college employees and external consultants to serve in a variety of roles, including as Deputy Title IX Coordinators, Investigators, Facilitators for Informal Resolution, Hearing Officers and Hearing Facilitators, and Appellate Officers. These individuals are appointed by the Title IX Coordinator and act with independence and impartiality.

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), Hearing Officer(s), and Appellate Officer(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet all assigned individuals to ensure impartiality by confirming there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another individual will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with a Deputy Title IX Coordinator or the President.

To assist them in performing their responsibilities, all individuals involved in the resolution of reports receive ongoing training. This training includes, but is not limited to:

- the scope of the Bates Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy and procedures;
- applicable laws, regulations, and federal regulatory guidance;
- the definitions of all offenses;
- reporting, confidentiality, and privacy requirements;
- how to implement appropriate and situation-specific remedies;
- how to uphold fairness, equity, and due process;
- how to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- implicit bias, disparate treatment, and impartiality and objectivity;
- how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable;
- how to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations; and
- recordkeeping.

The materials used to train all members of the Pool are publicly posted here:
www.bates.edu/here-to-help.

e. Agreements Not Recognized by the College

Other than a judicial order, the college will not recognize agreements between the Complainant and Respondent in which the college did not participate unless reviewed and approved by the Title IX Coordinator.

f. Time Frames

The College seeks to resolve all reports in a prompt and timely manner (60-90 business days). All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of time frames. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, the Complainant and the Respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution time frame needs to be extended for good cause, the College will provide written notice to all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Reasonable supportive measures will be implemented or continued during any delay.

Where the Respondent is a second semester senior, the college may withhold that student's Bates College degree pending conclusion of any proceedings under this policy.

g. Communications

All communications and notices required by these procedures may be made electronically, in hard copy, or in person.

h. Standard of Proof

The Hearing Officer(s) will determine whether the Respondent is responsible for a policy violation by the preponderance of the evidence standard which is whether the evidence provided supports a finding that it is "more likely than not" that the Respondent is responsible for the alleged violation.

i. Effect of Non-Participation of Parties

If the Respondent Party fails to meet and cooperate with the Title IX Coordinator, the Investigator(s), the Hearing Officer(s), or any other person during this process, the resolution of the complaint will proceed without input from the Respondent.

The Complainant retains all rights of the Complainant under this policy irrespective of their level of participation.

j. The Role and Participation of Witnesses

Witnesses (as distinguished from the parties) who are Bates employees are expected to cooperate with and participate in the college's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.²⁶

Meetings and interviews may be scheduled in person or using video conferencing. The college will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

k. Complaints with Multiple Respondents or Complainants

In formal complaints involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to resolve the allegations jointly.

However, the Title IX Coordinator may instruct that the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

Individuals may request Informal Resolution with any or all of the individuals involved, following the procedures described in Section X.E. Formal Resolution can be pursued with any of the remaining individuals.

B. Initiating a Report

Any person who has experienced an incident of bias, harassment, discrimination, or retaliation, as defined in the Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy, may file a report with the college. Upon receiving notice of that report, the Title IX Coordinator will contact the Complainant to provide information regarding resolution options and how to file a formal complaint and to offer supportive and safety measures. Individuals filing reports may request

²⁶ See the Student Code of Conduct or the Employee Handbook.

that the college initiate its Formal Resolution process, an Informal Resolution option, or request administrative assistance. Individuals may also request that the college take no action beyond providing supportive measures. Whenever possible the Title IX Coordinator will defer to the wishes of the Complainant. In the rare situations where the college must act to provide for the safety of the community and/or take action to fulfill its obligation to foster a harassment-free working and learning environment, the Title IX Coordinator will communicate this decision with the Complainant.

At the time a report is made, a Complainant does not have to decide whether or not to request disciplinary action. Choosing to make a report and deciding how to proceed after making the report can be a process that occurs over time. To the extent possible, the college will respect an individual's autonomy in making these decisions and provide support that will assist each individual in making that determination.

C. Initial Review

Upon receipt of notice or a complaint of an alleged violation of this policy, the Title IX Coordinator will conduct an initial review as described in Section X.C. As part of the Initial Review, the Title IX Coordinator will reach out to the Complainant to offer supportive measures and provide information about the resolution process. As part of an initial assessment, which is typically one to five business days in duration, the Title IX Coordinator, or their designee, will attempt to reach a determination on:

- whether the Complainant prefers a supportive response, an Informal Resolution option, or a Formal Administrative Resolution;
- whether a strictly supportive response is appropriate, given the nature of the allegations and the college's obligation to provide for the safety and welfare of the Bates community;
- whether Informal Resolution is appropriate and, if so, what method would be most appropriate, and whether the Respondent is also willing to engage in Informal Resolution;
- if initiating a Formal Administrative Resolution, whether the scope of the investigation will address: a single incident; and/or a potential pattern of misconduct; and/or a climate issue;
- whether there is a compelling reason for the Title IX Coordinator to initiate Formal Administrative Resolution if the Complainant does not wish to do so;
- in conjunction with the Directory of Security, whether a Clery Act timely warning is needed; and
- whether any protective measures need to be implemented to ensure the safety of the Complainant and/or the community.

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Bates Care Collaborative as part of the initial assessment to assist with these determinations. (See Section X.C.a for more information regarding Violence Risk Assessment.)

Based on the initial assessment, the college will initiate one of three responses:

- Supportive measures only: typically used for allegations of low level prohibited behavior that pose no risk to others in the community. This approach could include educational interventions to stop any offending behavior and prevent it from recurring;
- Informal Resolution: typically used for allegations of less serious offenses and only when all parties agree to Alternative Resolution, or when the Respondent is willing to accept responsibility for violating policy;
- Formal Administrative Resolution: an investigation of the alleged policy violation(s) and recommended finding of whether a policy violation has occurred, subject to a determination by one or more Hearing Officer(s), with the opportunity to appeal to one or more Appellate Officer(s).

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator. At any point during the initial assessment or formal investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that the policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

D. Informal Resolution

Informal Resolution provides the parties with an opportunity to reach a mutually agreeable resolution of a complaint without a full formal grievance process. Informal resolution may be requested by either party at any time after notice of a report. Informal Resolution may take three different forms -- resolution through an Alternative Resolution method, acceptance of responsibility by the Respondent, and when the Title IX Coordinator can resolve the matter informally by providing remedies that resolve the situation. When Informal Resolution is requested, the Title IX Coordinator will evaluate the appropriateness of using Informal Resolution based upon the criteria outlined in Section X.E.

Participation in Informal Resolution is strictly voluntary, and the Complainant or the Respondent can end Informal Resolution at any time. If the parties are not able to reach a successful resolution via Informal Resolution, a Formal Administrative Resolution process may be requested or resumed, if paused to explore Informal Resolution.

Parties are not required to attempt Informal Resolution prior to initiating the Formal Resolution process. (See Section X.E. for more detailed information regarding Informal Resolution.)

E. Formal Administrative Resolution

Formal Administrative Resolution is the formal grievance process that includes a fact-gathering investigation into the complaint, a determination hearing, and opportunities for appeal. The goal of Formal Administrative Resolution is to determine whether the Respondent is responsible for a violation of this policy. If the Respondent is found responsible for a policy violation, disciplinary sanctions and/or remedial actions will also be determined. Below are the detailed procedures used to resolve allegations using Formal Administrative Resolution under Process B.

a. Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (“the Notice”) to the Respondent upon commencement of the Formal Administrative Resolution process. Typically, notice will be given at least 48 hours prior in advance of an interview. Advanced notice facilitates the parties’ ability to prepare for the meeting and to identify and choose an Advisor, if any, to accompany them.

The Notice will include:

- a meaningful summary of all of the allegations;
- the policies implicated;
- a description of the applicable procedures;
- information on:
 - availability of support resources and supportive measures; and
 - the process for requesting disability accommodations during the resolution process;
- a statement regarding each of the following items:
 - the college’s policy on retaliation;
 - the college’s policy prohibition on knowingly making false statements, including knowingly submitting false information during the resolution process; and
- the name(s) of the Investigator(s), along with a process to identify any conflict of interest that the Investigator(s) may have.

Amendments and updates to the Notice may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, emailed to the parties’ Bates-issued email, delivered electronically via a secure Bates-issued account on a web-based portal, or, in rare circumstance, mailed to a physical address. Notices may be emailed to a personal email address if the party does not have an active Bates-issued email address. Once mailed, emailed, posted, and/or received in-person, notice will be presumptively delivered.

b. Investigation Procedures

1. Investigator(s)

The Title IX Coordinator, in consultation with Title IX Team members as appropriate, will designate one or more Investigator(s) of their choosing, who has specific training and experience investigating allegations of bias, harassment, and discrimination, to conduct a timely, thorough, impartial, and fair investigation. These trained Investigator(s) may be employees of the college, external consultants engaged to assist the college in its fact gathering, or a combination thereof. Any Investigator(s) chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigation is intended to provide a fair and reliable gathering of the facts. All individuals in the investigation, including the Complainant, the Respondent, and any third-party witnesses, will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the Investigator(s) will safeguard the privacy of the individuals involved.

The parties will be given the names of the Investigator(s) as part of the Notice of Investigation. All objections to any Investigator must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and prior to the start of the investigation. An Investigator will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial investigation of the allegation(s). Should a concern regarding whether an Investigator is impartial arise after the investigation has begun, the party should bring it to the attention of the Title IX Coordinator immediately.

2. Investigation Process

The Investigator will coordinate the gathering of information from the Complainant, the Respondent, and other individuals or entities with relevant information regarding the complaint.

All parties will have a full and fair opportunity to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to relevant evidence, on the record. All available evidence should be presented to the Investigator(s) prior to the conclusion of the investigation.

The investigation phase will typically be completed within sixty (60) calendar days. Given the availability of witnesses or complexity of the circumstances, this time frame may be extended as necessary to ensure the integrity and completeness of the investigation.

The Investigator(s) will provide periodic updates to the Title IX Coordinator, particularly regarding any emerging needs that would require additional protective or supportive measures for the Complainant or Respondent and regarding any adjustments to estimated timelines.

The Investigator(s) will also work with the Title IX Coordinator if in the course of the investigation new allegations emerge and the Notice needs to be amended or if new information suggests the certain allegations or the entire complaint should be dropped.

The Investigator(s) will gather information using any combination of the following:

2.1 Document/Records Review

In addition to reviewing any documents submitted by the Complainant and Respondent, the Investigator(s) will try to obtain such other physical or medical evidence relevant to the investigation as the Investigator(s) determine, in their judgment, to be necessary, including but not limited to documents, police records, electronic or other records of communications between the parties or witnesses, video or audio recordings, records or other relevant information. In obtaining such evidence, the Investigator(s) will comply with applicable laws and college policies.

The Investigator(s) may consider past disciplinary history if it provides evidence of a pattern of misconduct.

Unless the Title IX Coordinator determines it is appropriate, the investigation and the finding do not consider incidents not directly related to the possible violation, unless they evidence a pattern; nor does it consider the sexual history of the parties.

2.2 Site Visits

The Investigator(s) may visit relevant sites or locations and record observations through written or photographic documentation.

2.3 Complainant and Respondent Interviews

The Investigator(s) will interview the Complainant and the Respondent separately and may interview one or both more than once as necessary. The Complainant and the Respondent may be accompanied by their respective advisors. Parties will have the opportunity to review and verify the Investigator(s)' summary of the relevant evidence/testimony from their respective interviews.

2.4 Witness Interviews

The Investigator(s) will make a good faith effort to contact and interview any witnesses identified by the parties or in the documentation, including those no longer at the college. The Investigator(s) may also interview any other individual they find to be potentially relevant to the allegations of the report. Parties will have the opportunity to review and verify the Investigator(s)' summary of the relevant evidence/testimony from their respective interviews.

The Investigator(s) will inform each witness or other individual interviewed that they are prohibited from retaliating against the Complainant and the Respondent or other witnesses.

Prior to the completion of the investigation the Investigator(s) will provide the Complainant and Respondent with a list of Witnesses who were interviewed.

2.5 Experts

The Investigator(s) may contact any expert the Investigator(s) determine is necessary to ascertain the facts related to the report. An expert witness may be contacted for an informal consultation or for a professional opinion regarding information learned from the investigation.

3. Investigation Report

At the conclusion of the investigation, the Investigator(s) will prepare a written investigation report fully summarizing the relevant facts determined through the investigation, addressing all relevant evidence and referencing any supporting documentation or statements. In preparing the report, the Investigator(s) will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. The report will provide analysis of the evidence and assessments of credibility.

The Investigator(s) will include in the report a recommendation to the Hearing Officer(s) whether, based on a preponderance of evidence, the Respondent is responsible for a policy violation.

3.1 Review and Comment Period

Before the report is finalized, the Complainant and the Respondent will be given the opportunity to review a copy of the draft of the investigation report, as well as an opportunity to inspect and review all of the relevant evidence obtained as part of the investigation.

The Complainant and the Respondent will have a five (5) business day review and comment period to respond in writing to the report and evidence. Upon receipt of any additional information by the Complainant or Respondent, or after the five (5) day comment period has lapsed without comment, the Investigator(s) will attempt to resolve any remaining questions or concerns. In rare circumstances, the Title IX Coordinator may extend this review period to provide enough time for the parties to thoroughly review the report and evidence.

The Investigator(s) may elect to share the responses between the parties for additional comment or conduct limited follow-up interviews. The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report.

The Investigator(s) should document all rationales for any changes made after the review and comment period. Similarly, they should include written responses to comments that do not result in changes to the report.

The finalized report will be submitted to the Title IX Coordinator. The Title IX Coordinator will certify that the report is complete and meets the requirements under this policy. Reports that are not complete or do not meet the requirements under this policy will be returned to the Investigator(s) so they may incorporate any relevant feedback. The certified, finalized reports will be distributed to the parties.

c. Administrative Hearing Procedures

After the investigative report has been finalized, and provided the complaint has not been resolved successfully through Informal Resolution, the resolution process will proceed to an Administrative Hearing. The goal of this hearing is to make a determination whether the Respondent is responsible for a violation of this policy based upon a preponderance of evidence and, if so, appropriate sanctions and/or remedies.

1. Hearing Officer(s)

At the discretion of the Title IX Coordinator, the college will designate one or more Hearing Officer(s) to make the final determination of responsibility. The Hearing Officer(s) may be employees of the college, external consultants engaged to assist the college in its resolution of the complaint, or any combination thereof. The Title IX Coordinator will also designate one of these individuals as the Chair who oversees the administrative hearing. Any Hearing Officer chosen to participate in the hearing must be impartial and free of any conflict of interest. In all cases, these individuals will have received specific training related to the resolution of allegations of discrimination, harassment, or retaliation.

The Title IX Coordinator may not serve as a Hearing Officer but may serve as an administrative facilitator of the hearing, if one is needed. If the Title IX Coordinator is unavailable to serve as an administrative facilitator, a designee may fulfill this role.

The hearing is designed to provide the Complainant and the Respondent a fair and reliable opportunity to be heard and to present and challenge evidence and its credibility. All individuals will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the Hearing Officer(s) will safeguard the privacy of the individuals involved.

The parties will be given the names of the Hearing Officer(s). All objections to any Hearing Officer must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator. Hearing Officers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

2. Evidentiary Considerations in the Hearing

Any evidence that the Hearing Officer(s) determine is relevant and credible may be considered. With the exception that, unless the Title IX Coordinator determines it is appropriate, the investigation and the finding do not consider the sexual history of the parties or incidents not directly related to the possible violation, unless they evidence a pattern.

The Hearing Officer(s) may consider past disciplinary history if it provides evidence of a pattern of misconduct. Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a finding of responsibility. This information is only considered at the sanction stage of the process, and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Hearing Officer(s) at the sanction stage of the process when a determination of responsibility has been reached.

After deliberation, the Hearing Officer(s) renders a determination based on the preponderance of the evidence whether it is more likely than not that the Respondent violated the Policy as alleged.

3. Review of Investigative Report, Responses, and Evidence

The Title IX Coordinator will provide the Hearing Officer(s) with the final investigation report and the parties' responses to the report. All relevant evidence as determined by the Investigator(s) will also be provided. Within three (3) days of receiving the report, the Hearing Officer(s) will determine whether

they have sufficient information to make a determination of responsibility. If the information is sufficient, the Hearing Officer(s) will commence final deliberations. If the information is insufficient, they will conduct additional inquiry to address the needed information, including meeting with the Investigator(s), the Complainant and the Respondent, and/or any Witnesses, as necessary.

4. Deliberation and Decision-making

The Hearing Officer(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question by a preponderance of evidence. If a panel is used, a simple majority vote is required to determine the finding. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

The recommendation of the investigation should be strongly considered, but is not binding on the Hearing Officer(s).

When there is a finding of responsibility on one or more of the allegations, the Hearing Officer(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Hearing Officer(s) will also review any pertinent conduct history provided by Title IX Coordinator and/or the Student Affairs, Human Resources, and/or Dean of Faculty's Offices as appropriate. After this review, the Hearing Officer(s), in consultation with other administrators as needed, will determine the appropriate sanction(s).

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- the nature, severity of, and circumstances surrounding the violation(s);
- the Respondent's disciplinary history;
- previous allegations or allegations involving similar conduct;
- the need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation;
- the need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation;
- the need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community;
- the impact on the parties; and
- any other information deemed relevant by the Title IX Coordinator.

The Chair will then provide the Title IX Coordinator with a written deliberation statement detailing the determination, rationale for that determination, and any sanctions or remedies and the rationale for those sanctions.

5. Notice of Outcome

Using the deliberation statement provided by the Hearing Chair, the Title IX Coordinator will prepare a Notice of Outcome which will include the final determination, rationale, and any applicable sanction(s) and/or remedies. Typically, the finalized Notice of Outcome will be distributed to the Complainant and Respondent within three (3) business days of receiving the Hearing Officer(s)' deliberation statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official college records, or emailed to the parties' college-issued email or otherwise approved account, or posted on a secure web-based portal. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will also include information on the relevant procedures and grounds for any available appeal options and when the results are considered by the Recipient to be final. The Complainant and Respondent will be notified of any changes that occur prior to finalization.

d. Sanctions and Corrective Actions

Students found responsible for a violation of this policy violation are subject a range of disciplinary actions including any combination of the following:

- Loss or Restriction of Privileges
 - Loss of the privilege of participating in any public function (e.g., literary, dramatic, forensic, radio, television, musical, or athletic) wherein the participant will be thought of as a representative of Bates College;
 - Loss of on campus housing and/or dining privileges;
 - Loss of the privilege of participating in social and/or ceremonial events on campus;
 - Loss of specific campus or Bates-sponsored employment opportunities;
 - Loss of specific academic opportunities;
 - Loss of the privilege of maintaining a motor vehicle on campus;

- A requirement that a student resign membership in or any offices, elected or appointed, held in campus organizations;
- Loss of access to certain campus locations; and
- Loss of use of certain campus resources
- Required Action
 - Required counseling or educational sessions;
 - Required community service or restitution hours; or
 - Required restorative action
- Disciplinary Probation
 - Probation for a specified or indefinite period of time, with or without conditions relating to the termination of probation
- Suspension
 - Suspension for a specified or indefinite period of time, with or without conditions relating to readmission to the college
- Dismissal from the college
- Withholding or Revocation of Degree
- Any other sanction deemed appropriate

Sanctions or responsive actions for employees who have been found responsible for a violation of this policy could include any combination of the following:

- Warning – verbal or written;
- Loss of access to certain campus facilities or functions;
- Initiation of the Performance Improvement Process;
- Enhanced supervision, observation, or review;
- Disciplinary Probation for a specified or indefinite period of time, with or without conditions relating to the termination of probation;
- Required counseling or educational sessions;
- Required restitution or restorative action;
- Loss of annual pay increase;
- Loss of supervisory or leadership responsibilities;
- Loss of specific duties;
- Demotion, reassignment of duties, or transfer;
- Suspension with or without pay, for a specified or indefinite period of time, with or without conditions relating to return to the college;
- Delay in tenure track progress;
- Termination of employment; and
- Any other sanction deemed appropriate

In most circumstances, all sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

e. Appeals

The Complainant or Respondent may file a request for appeal in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome. Appeals are on limited grounds and are not intended to be a full re-hearing of the allegations or evidence. If an appeal meets the limited grounds, the non-appealing party will be notified of the appeal and have an opportunity to respond to it.

1. Appellate Officer(s)

The Title IX Coordinator, the college will designate either one or more Appellate Officer(s), including a voting Chair, to review and rule on the appeal. The Appellate Officers may be employees of the college, external consultants engaged to assist the college in its resolution of the complaint, or any combination thereof. Any Appellate Officer chosen to hear the appeal must be impartial and free of any conflict of interest. No Appellate Officer will have been involved in the investigation or hearing.

2. Grounds for Appeal

The Request for Appeal will be forwarded to the Appellate Chair to determine if the request is proper for consideration. This review is not a review of the merits of the appeal, but solely a determination as to whether the request is timely and is based on one or more permissible grounds.

Appeals are limited to the following grounds:

- a procedural error that may have had a prejudicial effect upon the outcome of the matter;
- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- the Title IX Coordinator, Investigator(s), or Hearing Officer(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter; or
- the sanction imposed on the Responding Party is grossly inappropriate.

If none of the grounds in the Request for Appeal meet the grounds in this Policy, the request will be denied by the Appellate Chair and the parties will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Chair will initiate a review of the appeal based on those grounds. They will notify the other party, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Hearing Officer(s).

The other party, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Hearing Officer(s) will be provided a copy of the appeal request with the approved grounds and be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them. The Chair will forward all responses to the parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this policy by the Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, the Investigator(s) and/or Hearing Officer(s), as necessary, who will submit their responses in three (3) business days. The responses will also be circulated for review and comment by all parties.

3. Review of Appeal and Notice of Appeal Outcome

Neither party may submit any new requests for appeal after this time period. The Appellate Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with other Appellate Officers (if any). The Chair may permit the parties an opportunity to be heard by the Officer(s) and answer questions from them.

The Appellate Officer(s) will render a decision on appeal in no more than three (3) business days, barring exigent circumstances. All decisions are by majority vote.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the college is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the college is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' Bates-issued email or posted on a secure web-based portal. Once mailed, emailed, posted, and/or received in-person, notice will be presumptively delivered.

4. Sanctions Status During the Appeal

Sanctions imposed as a result of Formal Administrative Resolution are implemented immediately upon the issuance of the Notice of Outcome, unless the Title IX Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal.

5. Appeal Considerations

Appeals may be granted with regard to the responsibility finding only on the basis of clear error, and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). An appeal is not an opportunity for the Appellate Officer(s) to substitute their judgment for that of the Hearing Officer(s) merely because they disagree with the finding and/or sanction(s).

In most cases, appeals are typically confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal. However, as noted, the Chair has the discretion to allow for brief oral argument.

The Appellate Officer(s) may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.

Appeals granted should normally be remanded to the original Investigator(s) and/or Hearing Officer(s) for reconsideration. In rare circumstances, appeals may be remanded in consultation with the Title IX Coordinator or, in extremely limited circumstances, decided on appeal. In cases where a procedural or substantive error cannot be cured by the original Hearing Officer(s) (as in cases of bias), the appeal may order a new investigation and/or hearing with new Investigator(s) and/or Hearing Officer(s).

When an appeal is denied, that decision is final. If an appeal results in a new hearing, the outcome of that hearing can be appealed on the grounds listed above and in accordance with these procedures.

In cases in which the appeal results in reinstatement to the college or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

f. Long-Term Remedies and Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator, in consultation with other appropriate administrators, may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services;
- Referral to the Employee Assistance Program;
- Education to the individual and/or the community;
- Permanent alteration of housing assignments;
- Permanent alteration of work arrangements for employees;
- Provision of campus safety escorts;
- Climate surveys;
- Policy modification and/or training;
- Provision of transportation accommodations;
- Implementation of long-term contact limitations between the parties; and
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found. When no policy violation is found, the Title IX Coordinator will address any remedies owed by the college to the Respondent to ensure no effective denial of educational access.

The college will maintain the confidentiality of any long-term remedies and actions, provided the confidentiality does not impair the college's ability to provide these services.

g. Failure to Comply with Sanctions and/or Remedies

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the time frame specified by in the Notice of Outcome.

Failure to abide by the sanction(s) or remedies imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) or disciplinary action(s), including suspension, dismissal, and/or termination from the college.

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