

The College Code of Student Conduct and Disciplinary Processes

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Bates takes pride in the responsibility of its students and the social and educational atmosphere of its campus.

Bates College students are held responsible for their conduct at all times. Any student who engages in academic or social misconduct shall be subject to student conduct action by the Office of Community Standards and/or the Student Conduct Committee.

The College reserves the right to withdraw from any student the privilege of attending college at Bates for any lawful reason that the College deems appropriate.

The following considerations constitute the foundation of the College's justification for establishing expectations of student conduct, codifying those expectations, and adopting equitable processes for assessing student conduct.

1. The College's mission as a private residential educational institution establishes its identity as an independent community with a distinctive history and culture.
2. The Charter and By-Laws of the College charge the faculty with responsibility for the welfare of students and the conditions under which they are to live and learn.
3. The College's standards of conduct and the procedures for determining responsibility for misconduct reflect its particular mission and history. These standards and procedures do not attempt to duplicate civil and criminal legal processes, nor do they attempt to substitute for them. As an institution structured to accomplish its stated educational mission, the College has an independent interest in upholding standards of academic and social conduct, and these expectations may differ from those found in society at large. The College is committed to fundamental fairness in its student conduct procedures.
4. By the action of matriculation and registration at Bates College, students voluntarily enter an educational and residential community with standards of academic honesty and respect for persons and property. In choosing to enroll in the College, students become responsible in their conduct to those standards as stated in the Student Conduct Code.

The College may address student academic and social misconduct through its own processes and apply sanctions governing the terms of membership in the College. The College reserves the right to deal with misconduct whether or not law enforcement agencies are involved and/or criminal charges may be pending.

Part I: Bates College Code of Student Conduct

The purpose of the Code is to express community standards of honesty, respect for persons and property, and responsible use of freedom. In addition, we seek to support each student in accessing the resources they need to be well. The Code reflects the College's mission and identity, and it exists to guide conduct, safeguarding and promoting the College's educational activity.

Students are responsible for reading and reviewing the Code of Student Conduct, and for understanding the responsibilities they assume by enrolling in the College.

For purposes of handling student conduct matters, a "student" is defined as someone who has matriculated and has not formally severed recognized student status with the College. Students retain this status throughout their careers at Bates, including academic terms, scheduled vacations, summer months, periods of leave, or off-campus study.

Student conduct action may not be brought against someone who has formally severed recognized student status with the College or who has graduated from the College except when such an individual may once again be a recognized student. The College reserves the right to at any time bar any non-current member of the Bates community from being on campus or participating in College-sponsored activities. In situations where it may not be possible to resolve a case prior to a student's graduation, the President (or designee) may cause the student's degree to be withheld until the case is fully resolved.

The College reserves the right to investigate and sanction alleged misconduct even when it occurs off campus. The College usually will apply the Code in instances where the off-campus misconduct:

1. occurs in connection with a College-sponsored event or when students are acting as representatives of the College, or
2. directly affects another member of the Bates community, or
3. suggests a potential danger or threat to others.

It is important that students know where to turn when they have questions, and for the College to be confident that those to whom they turn understand the student conduct system. In addition to the language of the Code itself, the College makes available a variety of resources: The Office of Community Standards, members of the faculty, the Judicial Educators, and Junior Advisors and Residence Coordinators (JAs and RCs). If a student has a general question about student conduct policy, JAs and RCs are able to provide helpful and accurate answers and may refer more detailed questions to other campus resources. For more detailed information, students may speak with the Judicial Educators, who have extensive familiarity with the student conduct process and who are prepared to explain it to students and faculty who become involved in any aspect of a student conduct matter. The Judicial Educators are not associated with the Office of Community Standards and do not determine any element of a case, but serve as an independent, informed resource for students (see Part III, A.3., below).

A. Bates College Statement on Academic Integrity

Bates College is an academic community deeply engaged in inquiry and intellectual exchange and is committed to core principles of academic freedom, academic integrity and rigorous, creative scholarship. We recognize that intellectual and artistic exchange depend on a mutual respect for independent inquiry, reflection and expression. Faculty, staff, and students alike are therefore dedicated to fostering an environment that upholds the highest standards of fairness, integrity, and respect in all their academic endeavors.

As contributors to an ongoing scholarly and creative conversation that depends upon thoughtful and fair acknowledgment and treatment of the inquiries, reflections, and expressions of others, each member of the Bates community is expected to use and represent the work of others fairly and honestly; to acknowledge the work of others fully and accurately through proper attribution and citation; and to produce their own work unless collaboration is permitted. Faculty and staff members are expected to meet these standards in all their work as described in the employee and faculty handbooks; students are subject to the policies and procedures described below.

In educating students in the values, dispositions, and responsibilities of independent thinkers and scholars, the Bates faculty recognizes that certain scholarly practices reflect complex tasks that require instruction and practice. Faculty are committed to teaching these critical practices. Students, in turn, are responsible for learning these scholarly practices and demonstrating them in all their work; they are not only a means of showing learning but of developing genuine understanding, not only the mark of an independent scholar but the way to become one.

This policy statement outlines these principles and practices, roles, and responsibilities. Potential consequences for students are described in the [Bates College Academic Integrity Procedures](#).

Violations of Academic Integrity

Violations of principles and practices of academic integrity fall into two subcategories: (1) plagiarism and misuse of sources and (2) cheating.

1. Plagiarism and Misuse of Sources

Plagiarism is the use without proper attribution of someone else's words, ideas or other work as if it were one's own. Failure to properly indicate and acknowledge the work of others can lead a reader, listener or viewer to think that information, research, ideas, words, images, data, artistic and creative elements, or other work are the student's own efforts, when they are not. Plagiarism significantly departs from accepted standards in the academic community and misleads others into thinking the work is the student's own.

Misuse of sources, like plagiarism, reflects failure to properly credit the work of others but involves errors, mistakes, incomplete, or inadequate attempts and other errors in citation, quotation, and attribution that would not seriously mislead others into thinking the work is the student's own.

Plagiarism and misuse of sources carry different consequences as described in [Bates College Academic Integrity Procedures](#).

The responsibility to give credit for material that would not qualify as common knowledge applies to almost all types of assignments and situations, not just papers, and not only to final work but also submitted drafts. Work in which students must acknowledge sources and the contributions of others includes but is not limited to draft and final versions of the following:

- talks and other oral presentations
- visual aids, presentation slides, or other media tools
- websites, Web pages, webcasts, and other multimedia work
- artistic, musical, and other creative work
- lab reports
- problem sets
- thesis chapters, papers, proposals, literature reviews, abstracts, annotated bibliographies, and other writing
- exams, including in-class and take-home exams.

2. Cheating

Cheating involves violating recognized norms for academic inquiry or specific norms established by faculty for particular assignments or using other methods, including technology, to gain unearned academic advantage. Examples of cheating include but are not limited to the following:

- unauthorized collaboration
- using materials not permitted during an exam, when writing a paper, or in completing other assignments
- receiving assistance beyond what is permitted
- manufacturing or falsifying data
- submitting the same work to satisfy the requirements of two different courses without getting permission from the instructor of the second course or permission from both instructors if the same work is submitted in two courses during a single semester
- knowingly providing assistance of any kind to another person who is attempting to cheat or plagiarize

Violations of academic integrity are among the most serious offenses that students can commit; any violation may result in consequences at both the course and institutional levels. Procedures, findings, and consequences for violations of academic integrity may depend on specific circumstances, such as the student's grade level, educational background, prior violation of academic integrity policies, attempts made to cite or acknowledge sources, and the amount and type of work at issue. Procedures and potential consequences for students are described in [Bates College Academic Integrity Procedures](#).

B. Social Misconduct

Bates College students are held responsible for their conduct at all times. Any student who becomes disorderly, is involved in any disturbance, interferes with the rights of others, damages property, or is individually or as a member of a group involved in unacceptable social behavior on or off campus may be subject to student conduct action by the Office of Community Standards and/or the Student Conduct Committee.

General Categories of Social Misconduct

Cases of social misconduct usually fall into one of several general categories. While not exhaustive, the following categories illustrate the expectations of the College and provide examples of misconduct subject to student conduct action. Many of these categories, and the accompanying examples, have a counterpart in the State of Maine Criminal Code. The stipulated definitions of state and local criminal codes and the processes of the criminal justice system are not part of the Bates Code of Student Conduct. Addressing a violation of the College's Code of Conduct does not exempt the individual from prosecution by proper authorities under criminal or civil code, and criminal or civil prosecution does not exempt the individual from being held accountable under the College's Code of Student Conduct.

1. Actions Against Persons

Conduct which involves force, threat of force, or intimidation directed at an individual or group of individuals may constitute an "action against persons" violation.

Examples of actions against persons violations include:

- **Assault:** This includes any unwanted physical contact, as well as fighting and physical altercations.
- **Sexual Misconduct:** Please refer to the College's [Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy](#) for detailed definitions regarding sexual misconduct violations (e.g., rape, sexual assault, dating violence, domestic violence, and stalking) and the procedures for adjudicating alleged violations.
- **Hazing:** Following Ch. 159 of Maine Public Laws, 1983, Bates prohibits injurious hazing, defined as "any action or situation which recklessly or intentionally endangers the mental or physical health of a student. . . ." Specifically, hazing means an act that, as an explicit or implicit condition for initiation to, admission into, affiliation with, or continued membership in a group or organization, (1) could be seen by a reasonable person as endangering the physical health of an individual or as causing mental distress to an individual through, for example, humiliating, intimidating, or demeaning treatment, (2) destroys or removes public or private property, (3) involves the consumption of alcohol or drugs, or the consumption or other substances to excess, or (4) violates any College policy. An act may be considered hazing regardless of the person's consent to participate.
- **Harassment, Intimidation, or Bullying:** This includes acts of intimidation, stalking, confrontation, verbal slurs, insults or taunts, physical force or threat of physical force made with the intention of causing fear, intimidation, ridicule, humiliation, disparagement, disruption to the educational environment, or damage to property. Such acts may be committed in person, by proxy, via telephone or cell phone, via text message, or any electronic means including social networking websites.
- For conduct concerns that may be related to a protected class (race, gender identity, sexual orientation, ability, national origin, religion, or other identity), please refer to the College's [Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy](#) for detailed definitions and the procedures for adjudicating alleged violations.

2. Actions Against Property

Conduct which results in damage to property of another individual or of the College, or conduct which improperly converts another's property to personal use may constitute an "action against property" violation.

Examples of actions against property violations include:

- **Theft:** To steal or knowingly possess stolen property or any item reasonably thought to be lost and not abandoned.
- **Damaging the property of another person or of the College:** Students may be subject to student conduct action for damage to the property of another person or College property, including their own rooms, in addition to providing restitution for any monetary costs assessed by another person or the College to repair such damage.
- **Illegally entering College facilities:** This includes unauthorized possession, use, or duplication of College keys or cards, passwords, or other means of access.

3. Dangerous or Disorderly Conduct

Conduct that is dangerous to self or others, or conduct that creates a disturbance or disrupts the ability of the College to carry on its essential functions may constitute a “dangerous or disorderly conduct” violation. In accordance with the Drug-Free Schools and Communities Act, the College’s standards of conduct prohibit the unlawful possession, use, or distribution of illegal drugs and alcohol by students and employees, on the College’s property, or as part of any of its activities.

Examples of dangerous or disorderly conduct violations include:

- **Illegally possessing, using, or distributing any scheduled drugs:** Unlawful possession, distribution, or use of illegal drugs and narcotics, including amphetamines, marijuana, cocaine, heroin, and LSD, renders a student liable to disciplinary action, including confiscation of materials, student conduct action up to and including suspension and dismissal, and/or referral to local police authorities.

Violating the College’s [Alcohol Policy](#)

- Bates College observes all laws governing the use of alcoholic beverages within the State of Maine. Students are held responsible for complying with all aspects of Maine laws and Bates alcohol policy. The prohibitions of the Bates Student Conduct Code and Maine law include, but are not limited to, the following:
 - The sale of alcoholic beverages by any person who does not have a license to sell such beverages in full force and effect at the time of the sale;
 - The sale of alcoholic beverages by any person to a person who has not attained the age of 21 years;
 - Consumption or purchase of alcoholic beverages by any person who has not attained the age of 21 years;
 - The furnishing of, procurement of or delivery of alcoholic beverages to a person who has not attained the age of 21 years;
 - The furnishing of, procurement of, or delivery of alcoholic beverages to a person who is intoxicated;
 - The presentation of any written or oral evidence of age which is false, fraudulent, or not a person’s own for the purpose of ordering, purchasing, or attempting to purchase or otherwise procuring or attempting to procure intoxicating liquor by a person who has not attained the age of 21 years;
 - Transportation by automobile within the state of Maine of alcoholic beverages by any person who has not attained the age of 21 years;
 - Possession or use of a keg by any student on the premises of the College except at where the appropriate measures are in place to prevent underage consumption of alcohol;

- Possession or consumption of hard alcohol or any beverage containing hard alcohol by any student on the premises of the College, at any College-sponsored event, or while the student is engaged in a College-related activity.

Violations of College policy or Maine law at events or parties occur at the risk of the individuals involved and are not the responsibility of the College.

Violators of these policies may be subject to student conduct action, including confiscation of materials, the revocation of the privilege of using College facilities for such events and/or referral to the Office of Community Standards or the Student Conduct Committee. The College reserves the right to involve law enforcement authorities and/or undertake legal proceedings against a student for the violation of this policy.

The College will also utilize its mental health resources to help students involved with drugs and alcohol.

- **Possessing a weapon on campus:** Weapons prohibited on campus include but are not limited to firearms, ammunition, knives, BB or pellet guns, bows, arrows, and slingshots. These items are not permitted except by permission of Bates College Campus Safety, which will register and store them. It is the responsibility of students to check with Bates College Security if there is a question of whether an item would be prohibited under this policy.
- **Fire safety violations:** Possessing or producing explosives and setting fires are prohibited. Intentionally setting off a fire alarm, misuse of a fire extinguisher, or any action that might cause a fire in a College building will be considered a serious offense and may be met with student conduct action, including suspension or dismissal by the Student Conduct Committee. Firecrackers, flares, and explosives are prohibited on campus. Accidentally setting off a false fire alarm incurs a fine that increases for repeated incidents.
- **Disorderly conduct:** Conduct which infringes on the freedom and activities of others, or conduct which is disruptive, harassing, or a nuisance may constitute disorderly conduct.
- **Lake Andrews Use Policy:** Ice skating is permitted at the user's risk. Unless authorized by the college or as part of a college sponsored event, activities including swimming, rafting (including inflatables), boating of any type, and remote control vehicles are not permitted.
- **Failing to leave a College building after a fire alarm has sounded or other notice of fire has been given, whether or not a drill.**
- **Urination or defecation in any location not designated for that purpose.**
- **Conduct which disrupts normal operations of the College and/or impedes access to College facilities.**

4. Actions Against the Institution

Conduct which involves the unauthorized accessing or alteration of documents and records controlled by the College, including class papers and examinations, or improper use of College electronic and physical resources, may constitute an "action against the institution" violation.

Examples of actions against the institution violations include:

- **Altering a College ID**
- **Tampering with College documents or records by hand or electronically**
- **Misappropriation of College funds**

- **Claiming falsely to represent the College or a College registered organization**
- **Use of any College resources, including electronic and physical, in support of any for-profit enterprise. This may include access to student, staff, and faculty information, residence halls, and other campus-owned spaces, etc.**
- **Information, network, computer, social media account, and telephone violations including violations of the Information & Library Services Acceptable Use Policy or any other related college policy. This includes the following policy:**
 - In line with our shared values around Academic Integrity and Conduct as articulated in the Student Code of Conduct, we would like to remind you that screen capturing or making audio/video recordings of synchronous or asynchronous meetings, lectures, discussions, course materials, or other classroom activities without the prior knowledge and consent of all parties is prohibited. This applies to the use of tape or digital recorders, cell phones, smartphones, computers, and other devices capable of creating a screen capture or making audio/video recordings. Likewise, the editing, sharing, or use of recorded or digitally shared course content outside of their assigned or intended purpose is also prohibited. Students with disabilities who wish to record classroom activity should contact the Office of Accessible Education for information about appropriate protocols.
- **Misrepresentation to gain access or use of a service or facility:** Violations may include lying in order to gain access to a College building, office, lab, etc.

5. Obstruction of College Procedures

Conduct which interferes with the regular procedures of the College, investigation of alleged Code violations, the process by which they are resolved, or their outcomes, or that violates any College policy, including but not limited to the Computer Use Policy, Residence Hall and Dining Service Regulations, and parking regulations, may constitute an “obstruction of College procedures” violation. Application of this section shall not be used to restrict the exercise of free expression of any member of the College community.

Examples of obstruction of College procedures include:

- **Refusing to identify oneself to College employees in the pursuit of their duties or to comply with appropriate instructions (e.g., refusing to provide one’s name or to disperse when asked to do so by campus Security)**
- **Refusing to appear before College administrators or Security personnel charged with authority in matters of student conduct**
- **Refusing to attend or to testify when called as a witness in a student conduct hearing**
- **Knowingly providing false information to any College official with intent to deceive during any phase of the student conduct process (including the investigatory stage) or conspiring with others to do so**
- **Harassing witnesses or others involved in the student conduct process at any time during the student conduct process, including the time during which any sanction is in effect**
- **Violating the terms of any sanction or not completing a sanction imposed by an appropriate authority (e.g., the Office of Community Standards or the Student Conduct Committee) in a student conduct matter.**
- **Bribing or attempting to bribe a College official**
- **Use or possession of a forged, altered, or falsified document, such as a fake ID**
- **Assisting a person in violating a College policy or attempting to violate a College policy**

Part II: Student Misconduct Resolution Processes (SMRP)

Framing Information

Introduction

The purpose of Part II of the Student Misconduct Resolution Process (SMRP) is to provide clear information about the processes used to respond to allegations of misconduct. Misconduct processes at the College are designed to provide support mechanisms to respond to harm caused to the community by behaviors that violate community standards. The process is designed to provide support to students throughout the process and to implement the least restrictive follow-up measures appropriate to the harm caused to the community.

The foundation of the process is to support students' well-being by responding to behavioral concerns and providing students with resources. In keeping with a commitment to respond with the least restrictive measures appropriate, the process is designed to connect students to intentional spaces for reflection, development, and behavior change.

Values

Fundamentally, community standards processes, including misconduct processes, are designed to support an inclusive environment. Community Standards go beyond mistakes and follow up processes and are grounded in the commitments made to others as a member of a community. Recognizing that accountability is a central part of healthy relationships at the individual, group, and community level, the processes outlined in this document are meant to support the health of both individuals and the broader community. These processes are not designed to exclude, remove, or shame, but rather are designed to create spaces for reflection, accountability, and repair. Healthy relationships require effective strategies for repairing harm to others. The misconduct resolution process is designed to provide fair and equitable procedures for determining when the student code of conduct has been violated, and to support the college community by providing pathways to repair harm and build healthy relationships.

Most participants in any accountability process worry about exclusion from the community, either in the form of suspension or dismissal, as the presumptive response to situations of misconduct. Recognizing the developmental nature of the college experience, suspension or dismissal are infrequently considered as responses to behaviors that violate community standards. Though rarely utilized, the community also recognizes that instances where significant harm has occurred to individuals or to the community, these are outcomes that may be necessary.

Contextualization of Process

Part II of the Student Misconduct Resolution Process (SMRP) outlines the steps utilized to address possible instances of misconduct related to students. Community Standards, and upholding the values and behaviors

that support them, is the responsibility of all members of the community. Questions about student processes should be referred to the Office of Community Standards.

Given the collective nature of these responsibilities, similar processes also exist for faculty and staff members. The employee versions of these processes are outlined in the [faculty](#) and [employee](#) handbooks. Questions about employee processes should be referred to Human Resources.

The [Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy](#) applies to all members of the community. Questions about processes related to this policy, as well as any reports of behaviors that potentially relate to this policy, should be referred to the Office of Title IX & Civil Rights Compliance.

Summary of Process

While every scenario is unique, every resolution process begins with an initial assessment. The initial assessment of the alleged misconduct is not a finding. Participating in a process does not mean that a person is ultimately responsible for the behavior identified. The initial assessment is an opportunity to learn more about what occurred and to evaluate whether, if true, those actions would be considered a violation of community standards.

Each process includes the following general steps:

1. Initial evaluation of a report made to the college
 - If this evaluation indicates that the identified behavior could not reasonably constitute misconduct, no further action is taken.
2. Notification to impacted parties that participation in a process is needed to further understand what occurred.
3. Selection of appropriate resolution process from one of three pathways:
 - Misconduct Resolution Meeting
 - Restorative Practice Resolution
 - Disciplinary Resolution
4. Facilitation of appropriate resolution process.

Timeline Expectations

The goal of any SMRP is to resolve the incident as quickly as possible, while being fair and thorough. For most instances of misconduct, the case will be resolved within 15 business days. For more significant processes, particularly those involving formal investigations, large numbers of witnesses, or intensive conflict resolution, additional time may be required. The college expects that the vast majority of cases will be resolved within 25 business days. If the circumstances of a particular matter preclude resolution within this time, the parties will be informed and kept apprised of anticipated timing.

In keeping with these expectations, all participants are expected to prioritize participation in necessary meetings over other non-academic commitments. Participants with conflicts may ask for one-time changes to meetings/timelines. Routine rescheduling of required elements of processes is not possible.

Privacy

Privacy is an essential part of the misconduct resolution process. Records associated with misconduct cases will be managed in accordance with all relevant legal guidelines.

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 \(HIPAA\)](#).

Individual Participants

Instances of potential misconduct are often highly sensitive experiences. Legal requirements, such as the Family Educational Rights and Privacy Act, (FERPA), (20 U.S.C. 1232(g)), require the college to handle potential misconduct with great care. Out of respect for all participants, as well as legal requirements, maintaining privacy throughout the process is the responsibility of all participants.

Breaches of privacy expectations are a violation of the Code of Conduct and may be considered a form of retaliation. Investigations of possible breaches of confidentiality will be addressed through the processes outlined in this policy.

Misconduct Resolution Team

All college employees who serve on the SMRT receive specific instruction about respecting and safeguarding private information in accordance with college policies and state and federal law. 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.

The college recognizes that allegations under this policy may include multiple forms of misconduct as well as violations of other Bates policies; may involve various combinations of students, employees, and other members of the college community; and may require the simultaneous attention of multiple departments. Accordingly, all college officials addressing aspects of the same complaint will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable policies, to provide uniform, consistent, efficient, and effective responses to the alleged misconduct.

Community

Transparency for the community around incidents of misconduct, and associated outcomes, is of fundamental importance. To support transparency, statistical information about incidents of misconduct, as well as outcomes associated with different types of misconduct and appeals, will be shared with faculty, staff, and students annually.

Accommodations and Support During the Resolution Process

The college is committed to providing reasonable accommodations and support to individuals with disabilities and/or language barriers to ensure equal access to the college's resolution process.

Anyone needing such accommodation or support should contact the Senior Associate Dean of Students, who will work with other college officials to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full participation in the process.

Key Definitions

Preponderance of Evidence

The Preponderance of the Evidence standard of proof will be used when determining whether a policy violation occurred. This means that the Decision Maker will decide whether it is more likely than not, based upon the available and relevant information at the time of the decision, that the Respondent engaged in behavior that violated the Code of Conduct.

Retaliation

Retaliation is any adverse action against any individual or group of individuals involved in the filing of a report, investigation, and/or resolution of an allegation of misconduct. This includes because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or resolution process under the Student Code of Conduct and Misconduct Resolution Process.

Forms of retaliation include intimidation, threats, coercion or discrimination. Retaliation can be committed by the college, a student, employee, or a person authorized by the college to provide aid, benefit, or service under the college's education program or activity, not just a Respondent. Retaliatory conduct interferes with the rights or privileges secured by law or policy.

Professional Staff Roles

Student Misconduct Resolution Team

The Student Misconduct Resolution Team (SMRT) is the group of trained faculty and staff responsible for facilitating the resolution of allegations of student misconduct in accordance with the Student Code of Conduct and Misconduct Resolution Processes.

The Student Misconduct Resolution Team, under the direction of the Senior Associate Dean of Students, is responsible for ensuring that possible instances of misconduct are resolved in a timely manner and according to the procedures outlined here. The SMRT also works together to participate in training and provide feedback on existing policies and procedures.

Misconduct Resolution Coordinator

Misconduct Resolution Coordinators (MRC) are student affairs staff members, or another SMRT member designated by the Senior Associate Dean of Students, who facilitate misconduct resolution processes, in accordance with the procedures outlined here. Protecting students' rights to accessing processes outlined in this document is an essential part of a MRC's responsibilities. MRCs review reports and other information about an incident, gather more information about the situation as needed, and facilitate resolution processes.

Process Educator

The Process Educators are available as a resource to help explain the college's student misconduct resolution process. Process Educators are independent of the SMRT and the Office of Community Standards. Any community member involved in a misconduct resolution process, including Respondents, Complainants, Third Parties, and Advisors are encouraged to meet with a Process Educator to better understand the process and have their questions answered.

The Process Educators are available to students even before a resolution process begins. For example, a student who has a grievance against another student may wish to speak with a Process Educator to learn what options are available on campus for resolving the matter. When a resolution process begins, the Respondent (and the Complainant in cases alleging Actions Against Persons) is encouraged, but not required, to meet with a Process Educator.

Investigator

The Investigator role is required only in the Disciplinary Resolution process. The Investigator is a neutral party tasked with the fact-gathering part of the misconduct resolution process. The Investigator is responsible for gathering evidence, interviewing Respondents, Complainants, and Third Parties, analyzing relevant primary evidence (i.e., incident reports, videos, or social media content, etc.) and drafting an investigative report.

The Investigator is responsible for generating case files and maintaining accurate records related to the investigation as well as engaging in professional development opportunities to remain current in best practices in the field.

The Investigator may be a member of the SMRT or a trained external consultant who specializes in this work. In complex cases, multiple investigators may be assigned to work as a team.

Decision Maker

The Decision Maker role is required only in the Disciplinary Resolution process. The Decision Maker is responsible for determining whether a policy violation has occurred. Until the Decision Maker reviews the report and makes a determination, all misconduct is considered to be alleged. The Decision Maker uses the report from the Investigator to determine whether, based on preponderance of the evidence standard, it is more likely than not that respondent engaged in behavior that violated the code of conduct.

The Decision Maker may be a member of the SMRT or a trained external consultant who specializes in this work. In complex cases, multiple Decision Makers may be assigned to work as a team.

In Disciplinary Resolution, the Decision Maker cannot also be the assigned Investigator.

Sanctioning Panel

The Sanctioning Panel role is required only in the Disciplinary Resolution process. When the Decision Maker determines that a policy violation has occurred, the Sanctioning Panel is charged with considering the Decision Maker's recommended sanction and determining the final sanction outcome. In this process, the Sanctioning Panel will consist of 1 student, 1 faculty, and 1 staff, drawn from the Student Conduct Committee. If there are not sufficient Committee members available to participate on the Sanctioning Panel, trained members of the Student Affairs division who have not participated in the case will fill these roles.

Appeal Panel

The Appeal Panel role is utilized only for the Misconduct Resolution Meeting and Disciplinary Resolution processes. When a Party files an appeal and the Dean of Students determines that grounds for the appeal are met, the Appeal Panel is tasked with reviewing the appeal request and determining the outcome of the appeal. The Appeal Panel will consist of 1 student, 1 faculty, and 1 staff, drawn from the Student Conduct Committee, who have not been involved in the case previously. If there are not sufficient Committee members available to participate on the Appeal Panel, trained members of the Student Affairs division who have not participated in the case will fill these roles.

Student Roles

Respondent

"Respondent" refers to an individual student who is alleged to have engaged in behavior prohibited by this policy.

Complainant

"Complainant" refers to an individual student who is a target, victim, or survivor of any alleged behavior prohibited by this policy.

Parties/Party

"Parties" refers collectively to the Respondent(s) and Complainant(s) in a matter. When "Party" is used it refers to any Respondent or Complainant.

Campus Community Member Roles

All members of the campus community including faculty, staff, and students, are eligible to serve in these roles.

Advisor

Any student called upon to provide information in a misconduct resolution process may ask a current member of the Bates College community (i.e., students, faculty, staff) to serve as an Advisor, providing that this individual is willing and available to serve at the appropriate time (i.e., without significantly delaying the resolution process). Former faculty and staff, employees on leave, alumni of the college, and students not

currently registered for classes at the college may not serve as Advisors. It is up to the student to decide whether and when to have an Advisor present; the student may choose not to exercise this option.

The role of the Advisors is one of support. Advisors should assure that their advisees clearly understand all questions asked, and that their advisees clearly communicate their account of events. Advisors may wish to contact the Process Educator to learn more about the misconduct resolution process before beginning to serve as an Advisor. The advisor may attend meetings associated with the disciplinary resolution process together with the complainant or respondent, either in person or virtually. The advisor may not ask or answer any questions directed to the Parties.

Advisors cannot be involved in the resolution process as an additional Complainant or Respondent or potential Witness/Observer.

Standing Advisor

The Assistant Dean for Community Standards is responsible for maintaining a list of community members who have proactively communicated their willingness to serve as Advisors. These Advisors are referred to as Standing Advisors. The Assistant Dean will provide a basic training annually to all Standing Advisors detailing the policies and procedures contained in the Code and the role of the Advisor in the process.

Support Person

In addition to an Advisor, Respondents and Complainants may ask a person of their choice to provide personal support during a resolution process. The chosen individual must be willing and able to serve at the appropriate time (i.e., without significantly delaying the process). The Support Person is separate from the student's chosen Advisor, if there is one. It is up to the student whether to have a Support Person present; the student may choose not to exercise this option.

A Support Person cannot be involved in the resolution process as an additional Party or potential Witness/Observer. The support person may attend meetings associated with the disciplinary resolution process together with the complainant or respondent, either in person or virtually. The support person may not ask or answer any question directed to the Parties'. It is up to the parties to decide whether to have a support person present. Individuals may choose not to exercise this option.

Witness/Observer

Witnesses/Observers are individuals who are asked to provide information to the Investigator in service of determining whether an incident of misconduct occurred. The Witness/Observer is responsible for speaking truthfully and sharing their knowledge of the incident. Witnesses/Observers may have direct or indirect knowledge related to the alleged incident of misconduct. Witnesses/Observers are responsible for clearly representing their knowledge of the incident, as well as how they obtained this knowledge. Should extenuating circumstances impact the Witness/Observer's participation, the Witness/Observer should discuss their concerns with the Misconduct Resolution Coordinator.

If a Witness/Observer intentionally provides false or misleading information, that action could be grounds for beginning a misconduct resolution process.

Third Party

Third Party refers to any other participant in the resolution process, other than the Complainant or Respondent, including a Witness/Observer to the incident or other participant in a misconduct resolution process.

Resolution Procedures

Initial Inquiry and Evaluation

Upon receiving a report of alleged misconduct, the Misconduct Resolution Coordinator conducts an initial inquiry and evaluation. The initial inquiry and evaluation may include:

- gathering information to assess the nature and circumstance of the allegation(s) and whether the reported conduct may reasonably constitute a violation of the Code;
- offering and coordinating supportive measures for the Parties;
- assessing whether there are any immediate risks to the safety of the Complainant and/or the broader campus community that need to be addressed;
- notifying the Parties of the range of the procedural options, including Misconduct Resolution Meeting , Restorative Practice Resolution, and Disciplinary Resolution and the college's policy prohibiting retaliation;
- coordinate preservation of relevant evidence;
- notifying Campus Safety to record the report as part of the college's daily crime log, as applicable; and
- assessing the reported conduct for the need for a timely warning under the Clery Act.

If after the initial inquiry and evaluation the alleged misconduct does not reasonably constitute a violation of the Code, the matter will be dismissed from the process at this stage. If the alleged misconduct could constitute a violation of the code, the matter will proceed forward through the processes outlined below.

Resolution Pathways

Allegations of misconduct can be resolved via the following pathways:

- Misconduct Resolution Meeting
- Restorative Practice Resolution
- Disciplinary Resolution

Misconduct Resolution Meeting

Misconduct resolution meetings are the primary pathway used to address instances of minor misconduct. Misconduct is considered minor where, should there be a decision that a violation of the Code occurred, only the following sanctions are under consideration:

- Educational sanctions;
- Required actions;
- Warnings/Notifications;
- Notification of parents; or

- Notice for 1 year or less

Misconduct resolution meetings are not an option when a violation of the Code might result in Notice of more than 1 year, Suspension, or Dismissal. In these situations, the case will be referred to the Disciplinary Resolution Process.

The Misconduct Resolution Meeting method of resolution is not a formal hearing. Rather, it provides an opportunity for the Parties involved in a matter of minor misconduct to meet with the MRC and discuss the allegations of misconduct. The MRC may review additional evidence and/or speak with Third Parties before determining whether the student is responsible for the alleged violation. Following a finding of responsibility, the MRC will also determine the appropriate sanction following the procedures outlined in the Misconduct Resolution Manual. For the MRC to find a violation of the Code, the MRC must determine that the alleged violation has been established by a Preponderance of the Evidence. Any Third Party called upon to speak to the MRC in connection with a student conduct matter may ask another member of the current Bates College community to serve as an Advisor, as outlined by policy.

Once the MRC has determined whether a violation has occurred, they shall send the Parties an outcome letter detailing their decision. The outcome letter will reiterate the circumstances of the incident, state the MRC's finding, and outline any sanctions if applicable. The decision in a case of minor misconduct shall not be recorded on the student's permanent record but will remain in the student's confidential disciplinary file until graduation or formal separation from the college. Information recorded in confidential disciplinary files may be considered when relevant to future disciplinary matters.

If the MRC makes a decision in a case of minor misconduct that the student found responsible feels is unjustified, that student may appeal the decision to the Dean of Students following the procedures outlined by this policy.

Restorative Practice Resolution Options

Restorative Practice Resolution provides an opportunity to reach a mutually agreeable resolution of a complaint without a full and formal disciplinary process. To initiate Restorative Practice Resolution, a Respondent or Complainant may make such a request to the MRC at any time prior to a final determination, or MRC may offer the option to the Parties, in writing. The college will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Restorative Practice Resolution before proceeding and will not pressure the Parties to participate in Restorative Practice Resolution. In matters that do not involve a Complainant, the agreement is between the Respondent and the college.

Before initiation of a Restorative Practice Resolution process, the college will provide the Parties with a written notice that explains:

- the nature of the allegations and the possible sanctions and remedies that may result from the resolution process (if they have not already received such notice);
- the requirements of the Restorative Practice Resolution process;
- the voluntary nature of Restorative Practice Resolution and their rights to decline to participate or to withdraw from the Restorative Practice Resolution process at any time prior to reaching an agreement and to initiate or resume the college's Disciplinary Resolution process;

- that the Parties' agreement to a resolution at the conclusion of the Restorative Practice Resolution Process will preclude the Parties from initiating or resuming the Disciplinary Resolution Process arising from the same allegations; and
- what information the college will maintain, and whether and how it could disclose such information for use in its Disciplinary Resolution process.

The college offers three categories of Restorative Practice Resolution: Restorative Resolution Practices; Voluntary Agreement; Voluntary Withdrawal from the College.

Restorative Resolution Practices

Upon the request of either Party involved in the matter, the MRC shall evaluate whether some form of restorative practices and/or conflict resolution may be appropriate. This method of resolution may involve agreement to pursue mediation, shuttle negotiation, restorative practices, facilitated dialogue, individual or community remedies, or other forms of resolution that can be tailored to the needs of the Parties. Some Restorative Practice Resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue.

All Parties must consent to the use of a Restorative Practice Resolution approach and to be bound by the outcome with no review or appeal. The outcome of any Restorative Practice Resolution option shall not include a formal finding in the student's record and may not result in Notice, Suspension or Dismissal. The outcome of a Restorative Practice Resolution process will be kept in the confidential files of those involved for reference only. Should the process be unsuccessful, the case may still be referred by the MRC to another resolution option present in this Code.

The Assistant Dean for Community Standards will develop and maintain a program to train interested students, faculty, and staff who may wish to serve as facilitators of various Restorative Practice Resolution options. External consultants who have expertise in these practices may assist the college with facilitation.

Failure to abide by the resolution agreement may result in appropriate sanctions/disciplinary actions (e.g., dissolution of the agreement and resumption or initiation of the Disciplinary Resolution Process; referral to the conduct process for failure to comply).

Voluntary Agreement

The Respondent may seek resolution of a pending allegation by asking the MRC to recommend a resolution. The MRC will consult with the Parties and consider what result would be in the best interest of the Parties and the college community. After these conversations, the MRC will meet with the Parties and their Advisors to review the proposed resolution. The Parties will be allowed to present impact statements at this time. After these meetings the MRC will finalize the proposed resolution and prepare a written statement of the resolution for the Respondent's review. The Respondent will have 3 business days to determine whether they wish to agree to the resolution.

Once a resolution agreement has been signed, the matter is considered closed and is not appealable. If the Respondent does not agree to the proposed resolution, all other methods of resolution remain available to the MRC.

Voluntary Withdrawal from the College

A Respondent has the right to withdraw from the college at any time, rather than proceed with a resolution process. The respondent shall notify the MRC or Senior Associate Dean of Students of their decision to withdraw from the college. The withdrawal must be effective immediately or on a date approved by the Senior Associate Dean of Students or their designee.

A Respondent who elects to withdraw from the college while an allegation that could result in Suspension or Dismissal is pending, shall have no right to apply for readmission. In exceptional circumstances however, the Senior Associate Dean of Students or their designee may grant a withdrawing or withdrawn student permission to apply for readmission. If such special permission is granted, readmission will not be automatic and may be denied or offered subject to such terms and conditions as the Senior Associate Dean of Students or their designee deem to be appropriate. The transcript of a student who withdraws under these circumstances shall contain the notation "Voluntary withdrawal with disciplinary charges pending."

When a Respondent chooses to withdraw from the college and a notation will be placed on their transcript, the Senior Associate Dean of Students, or their designee, will draft a written statement confirming (a) the respondent's voluntary withdrawal with disciplinary charges pending, (b) the date on which such withdrawal shall be effective, (c) the respondent's acknowledgement that the respondent's official college transcript will thereafter bear the notation "Voluntary withdrawal with disciplinary charges pending," and (d) any terms and conditions of the withdrawal. This document must be signed by the Respondent to implement the withdrawal. There is no right of appeal once this document has been signed.

Disciplinary Resolution

Disciplinary Resolution is the process that includes a fact-gathering investigation into the complaint, further inquiry and finding(s) by an assigned Decision Maker, and opportunities for appeal. The goal of Disciplinary Resolution is to determine whether the Respondent is responsible for a violation of policy. If the Respondent is found responsible for a policy violation, disciplinary sanctions and/or remedial actions will also be determined.

The Disciplinary Resolution procedures are guided by the principles of fundamental fairness and respect for all Parties, which requires notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a complaint under this Code.

Notification

Prior to an investigation, MRC will provide the Parties with a detailed written Notification Letter (NL). Amendments and updates to the NL may be made as necessary as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

The NL typically includes:

- a meaningful summary of all allegations, including:
 - the identity of the involved Parties (if known);
 - the precise misconduct being alleged; and
 - the date and location of the alleged incident(s) (if known);
- the specific policies/offenses alleged to have been violated;
- a description of, link to, or copy of the applicable Resolution Procedures;

- the potential sanctions that could result from a finding of responsibility;
- information on:
 - the right of each Party to have an Advisor and Support Person who may accompany them through all steps of the resolution process;
 - the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share college work product obtained through the resolution process;
 - the process for requesting disability accommodations or other support during the resolution process; and
 - availability of support resources and supportive measures;
- a statement regarding each of the following:
 - 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, during the review and comment period, will be given an opportunity to inspect and review all relevant evidence obtained;
 - the college's policy prohibiting retaliation; and
 - the college's policy prohibiting knowingly making false statements, including knowingly submitting false information during the resolution process;
- the name(s) of the Investigator(s), along with a process to notify Senior Associate Dean of Students of any conflict of interest that the Investigator(s) may have in advance of the interview process; and
- an instruction to preserve any evidence that is directly related to the allegations.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official college records, emailed to the Parties' college-issued email or designated accounts, or delivered electronically via a secure Bates-issued account on a web-based portal. Once mailed, emailed, delivered electronically, and/or received in person, the notification will be presumptively delivered.

Investigation

Once Disciplinary Resolution is initiated, the Senior Associate Dean of Students/designee appoints an Investigator to conduct a fact-gathering investigation. Investigators may be members of the Student Misconduct Resolution Team, or any other properly trained Investigator, whether internal or external to the college community. The role of the Senior Associate Dean of Students/designee is to ensure validity of the investigation process, and facilitate the sharing of information between the investigator and the Parties and their respective Advisors.

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviewing the Parties, interviewing any Third Parties who may have relevant information, conducting follow-up interviews where appropriate, obtaining other relevant evidence, and identifying sources of expert information, where appropriate. In the course of gathering relevant evidence, the investigator will ask the Parties to identify individuals likely to have relevant information and to identify and provide any documents or other relevant evidence. The Investigator will provide each Party with an opportunity to respond to or comment on the relevant evidence gathered during the investigation.

Prior to the conclusion of the investigation, the Parties and Third Parties will be given a defined period of time within which to review and verify the accuracy of the recording, transcript, or summary of their interview and to submit requested changes, edits, or clarifications.

The Investigator will write a draft investigation report that describes, assesses and synthesizes the relevant evidence. The Investigator will then provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation. The Parties will then have five (5) business days to review and prepare comments to the draft Investigation Report, to submit additional evidence, or to suggest additional investigatory steps be taken.

After the review period and, where appropriate, any further investigation, the Investigator will incorporate any new, relevant evidence and information obtained into the Investigation Report. This Final Investigation Report will be shared with the Senior Associate Dean of Students, the Decision Maker, and the Parties and their respective Advisors simultaneously.

Decision Maker Review

At the discretion of the Senior Associate Dean of Students/designee, the assigned Decision Maker will be an individual or a panel drawn from the Misconduct Resolution Team, or other trained individuals either internal or external to the institution. The role of the Senior Associate Dean of Students/designee is to ensure the validity of the process and facilitate the sharing of information between the Decision Maker and the Parties, and their respective Advisors. In rare cases, once the Decision Maker receives and reviews the file, they can recommend immediate dismissal of the case to the Senior Associate Dean of Students/designee, if indicated.

Otherwise, once the Decision Maker has reviewed the Final Investigation Report and relevant evidence, they will schedule individual meetings with the Parties to ask any additional questions and to understand whether the Parties believe further investigation is warranted and, more specifically, what further inquiries the Parties maintain should be made. These meetings will be recorded and transcribed. Thereafter, the Decision Maker may choose to meet with other Third Parties and/or meet again with one or both of the Parties to ask further questions or to conduct further inquiry as suggested by the Parties. In the event a Party suggests further investigation or questioning is warranted and the Decision Maker declines to undertake such further investigation or questioning, the Decision Maker will provide the Parties with their rationale, either in the context of a recorded meeting, or in writing (typically as an appendix to the Final Investigation Report).

When the Decision Maker has completed their further inquiry, the recordings or transcripts of all meetings with the Decision Maker will be provided to the Parties for their review. The Parties will then have five (5) business days for final review and comment. In addition, the Senior Associate Dean of Students will provide the Parties with an opportunity to submit a written impact and/or mitigation statement. The Senior Associate Dean of Students will hold these statements until after the Decision Maker has made determinations on the allegations, as explained below.

Determination/Finding

Upon receiving final comments from the Parties, the Decision Maker will then apply the Preponderance of the Evidence standard to determine whether the Respondent is responsible for each violation alleged. In the event of a finding of responsibility for one or more Code violations, the Decision Maker will request the impact statements from the Senior Associate Dean of Students and review them prior to determining sanctions.

If it is later determined that a Party or Witness intentionally provided false or misleading information, that action could be grounds for reopening a Disciplinary Resolution process, and/or referring that information to another process for resolution.

Sanctioning Panel

If the Decision Maker determines that a violation of the Code has occurred, they will recommend a sanction based on a variety of factors. Factors the Decision Maker may consider when determining sanctions include:

- the nature, severity of, and circumstances surrounding the violation(s);
- the sanctioning rubric included in the Misconduct Resolution Manual and precedent in similar cases;
- the Respondent's disciplinary history;
- the need for sanctions to prevent recurrence of the behavior;
- the need to remedy the effects of the behavior on the Complainant and/or the community;
- the impact on the Parties;
- the Respondent's acceptance of responsibility; and
- any other information deemed relevant by the Decision Maker.

The Decision Maker will deliver their decision, recommended sanction, and a brief summary of reasons for the recommended sanction to the Senior Associate Dean of Students, who shall relay the impact statements (if any were submitted), the decision, and the information relating to recommended sanction to the Sanctioning Panel. The Sanctioning Panel will consist of 1 student, 1 staff, and 1 faculty member from the Student Conduct Committee. If there are not sufficient Committee members available to participate on the Sanctioning Panel, trained members of the Student Affairs division who have not participated in the case will fill these roles. The Sanctioning Panel will determine the sanction based on the Decision Maker's recommendation, and the factors listed above. The Sanctioning Panel will notify the Senior Associate Dean of Students of the final sanction(s) and, if the ultimate sanction differs from or is supported by reasoning other than as set forth in the Decision Maker's recommendation, the rationale for the decision in writing. The Senior Associate Dean of Students will deliver notification of the decision and applicable sanction(s) to the Parties and their respective Advisors simultaneously.

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal if an appeal is not filed.

Notification of Outcome

After the Decision Maker's final determination, the MRC will provide the Parties with a written Notification of Outcome.

The Notification of Outcome will be shared with the parties simultaneously 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 Notification of Outcome will specify:

- the finding on each alleged policy violation;
- all applicable sanctions that the college is permitted to share according to state or federal law; and
- a detailed rationale, written by the Decision Maker, supporting the findings to the extent the college is permitted to share under federal or state law; and
- a detailed rationale provided by the Sanctioning Panel, if available.

The Notification of Outcome will also detail the available grounds for appeal and when the results are considered to be final. The Parties will be notified of any changes that occur prior to finalization.

Appeal

The Parties may file a Request for Appeal in writing to the Dean of Students within three (3) business days of the delivery of the Notification of Outcome. Appeals are on limited grounds and are not intended to be a full re-evaluation of the allegations or evidence. The Request for Appeal must be made in writing and include detailed information outlining the grounds for appeal and the rationale for overturning the finding and/or sanctions.

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 prior to a determination of the merits of the appeal. If the Request for Appeal does not provide information that meets the grounds in this Code, the request will be denied by the Dean of Students, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If the request meets the limited grounds, the Dean of Students will provide all necessary documentation to the Appeal Panel. The Appeal Panel will consist of 1 student, 1 staff, and 1 faculty member from the Student Conduct Committee, and who have not served on the Sanctioning Panel in the same case. If there are not sufficient Committee members available to participate on the Appeal Panel, trained members of the Student Affairs division who have not participated in the case will fill these roles.

Appeal Grounds

Appeals are limited to the following grounds:

- a procedural irregularity that would change 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;
- Investigator(s) or Decision-maker(s) had a conflict of interest or bias that affected the outcome of the matter; or
- the sanction(s) imposed on the Responding Party is grossly inappropriate.

Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Panel may collect any additional information needed to render a decision. If necessary, the Appeal Panel may consult with the Decision Maker, Senior Associate Dean of Students, the MRC, and/or legal counsel on questions of procedure or rationale or for needed clarification.

Appeal decisions are to be deferential to the original determination, granting the appeal and referring the case for reconsideration of the finding and/or sanctions only when there is clear error and to the sanction(s) only if there is a compelling justification to do so. All decisions apply the Preponderance of the Evidence standard of proof. An appeal is not an opportunity for the Appeal Panel to substitute their judgment for that of the original Decision Maker and/or Sanctioning Panel merely because they disagree with the finding and/or sanction(s).

The Appeal Panel will notify the Senior Associate Dean of Students of the appeal decision and the rationale for the decision in writing.

The Senior Associate Dean of Students will deliver notification of the appeal decision to the Parties and their respective Advisors simultaneously.

Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision Maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision Maker, the Dean of Students may order a new investigation and/or a new determination with new individuals serving in the Investigator and Decision Maker roles.

A Notification of Appeal Outcome letter (“Appeal Outcome”) will be sent simultaneously to all Parties. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) or remedies that may result which the college is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent the college is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address as indicated in official institutional records, emailed to the Parties’ college-issued email or otherwise approved account or electronically delivered via a secured web-based portal. Once mailed, emailed, electronically delivered, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination. When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding, that finding and its sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are not implemented during the appeal process.

Disciplinary Actions

The purpose of disciplinary action is to support students in repairing harm to the community caused by misconduct. Accountability is one of the most important parts of living in a community. When misconduct occurs, the individual responsible needs to repair harm to the community, as well as engage in supportive practices that help that person avoid similar future situations.

Educational Sanctions

Educational Sanctions are mandatory actions that require a student to engage in certain opportunities following an incident of misconduct. The purpose of Educational Sanctions is to ensure that students have access to

information, skills, and support to successfully navigate campus life moving forward. These sanctions are meant to attend to the well-being of the individual and the campus community.

Examples of possible educational sanctions include:

- Substance Use Assessment/Support Meetings;
- Completing educational opportunities such as online courses, reading/discussing an article, etc.;
- Participation in time-limited conversation series or educational group on a specific topic of concern; and
- Completion of required activities such as well-being planning modules, facilitated conversations or discussions, and other activities.

Required Actions

Sometimes, additional actions beyond Educational Sanctions may be needed to repair harm caused to the community. The purpose of Required Actions is to address harm caused by specific actions and remedy the impact that these actions have caused to other individuals.

Examples of possible Required Actions include:

- Moving off campus and finding alternative housing separate from the college;
- Moving back onto campus and returning to living in a residential community supervised by the college
- Moving to a different residential community within the campus;
- Resigning from campus student leadership positions, campus employment opportunities, and/or membership in campus organizations or offices, including sports teams;
- Refraining from participation in public functions where the participant will be thought of as a representative of the college;
- Refraining from participation in campus-based social or ceremonial events including graduation;
- Refraining from having a vehicle on campus; and
- Any other restriction (except Notice, Suspension, or Dismissal) appropriate to the violation.

Warnings and Notifications

The purpose of Warnings and Notifications is to communicate clearly that a particular incident of misconduct causes harm to the community and cannot continue. Warnings also allow for assessment of patterns of misconduct and resulting patterns of harm to others. Warnings are delivered to Respondents as electronic letters and remain in the student's confidential file until graduation or formal separation from the college.

Notifications alert an individual in a Respondent's support network that the Respondent has been held accountable for misconduct and may need additional support. These notifications are made to build additional support around the individual.

Notification of Parents/Emergency Contacts

In cases where concern exists for the wellbeing, health, or safety of Respondents, emergency contacts will be notified of the misconduct and resulting disciplinary action. Notification will also be provided when concern exists for the Respondent's ability to continue progress towards their degree. Parents/emergency contacts will

receive formal notification via letter delivered to the listed home address. This communication will provide general information about the misconduct, reason for concern, and the name of a staff member for follow up.

Notice

Notice means that a sanction of Suspension or Dismissal is held in abeyance and will take effect only if the Respondent is found to have committed a similar violation in the future. Notice is meant to communicate clearly that the identified behavior is harmful to the community and cannot continue. If a student already on Notice is again held accountable for a similar violation, the penalty held in abeyance will be implemented (Suspension or Dismissal). If indicated, additional action may be taken during the second misconduct resolution process. Notice is not recorded on the student's permanent record but will remain in the student's confidential file until graduation or formal separation from the college.

Suspension

Suspension temporarily separates a student from the college community. Suspension recognizes that in certain cases, individual actions cause harm to the community that requires a period of separation to repair. As part of Suspension, the college may also impose conditions to a student's return to the college. A student who is suspended must leave the campus and may not return until the Suspension is fulfilled or revoked. Unless otherwise specified, the Suspension goes into effect immediately (within two class days) and the student is withdrawn from all courses. In some rare cases, Suspension may be deferred until the end of the semester. Suspension will be noted on the student's official transcript, but only during the time that it is in effect.

Dismissal

Dismissal (sometimes referred to as expulsion) permanently removes a student from the college community. Dismissal recognizes that in certain cases individual actions cause such harm to the community that it is not possible for the person to repair harm and return to the community. This permanently severs a student's connection with the college. Dismissal will be noted on the student's permanent record and on the student's official transcript. Students dismissed from the college are not eligible for readmission or for hire.

Part III: Rights, Responsibilities, and Resources

Student Rights, Responsibilities, and Resources

The rights and responsibilities described in this section are equally applicable, where relevant, to students and to faculty or other college employees who accuse a student of misconduct.

Parties' Rights and Responsibilities

The Parties have opportunities to make decisions affecting their own welfare throughout the process by which an allegation of misconduct is resolved. This is fundamental to the principles of fairness upon which the Student Misconduct Resolution Process (SMRP) and its procedures are constructed. The Parties have the following rights and responsibilities:

- The right to be heard and present their perspectives.
- The right to be afforded the procedures outlined in the Code of Student Conduct and Misconduct Resolution Process;
- The right to meet with a Process Educator and to have an Advisor and/or Support Person if the Party so chooses;
- The right to be free from harassment and retaliation from the college, Complainant or other Witnesses (or parties acting on their behalf) at any time during a Misconduct Resolution Process;
- The right to be informed of the outcome of the Student Misconduct Resolution Process;
- The responsibility to refrain from contact (direct or indirect) with the other Party or other Witnesses, or certain members of the Bates community or members of the community at large involved in the pending case when so directed by the MRC;
- The responsibility to make a good-faith effort at Restorative Practice Resolution options when this option is chosen by all Parties;
- The responsibility to abide by the instructions of the SMRT, including instructions regarding Witnesses;
- The responsibility to be truthful through the Misconduct Resolution Processes. If it is later determined that a Party or Witness intentionally provided false or misleading information, that action could be grounds for reopening a Disciplinary Resolution process; and
- The responsibility to abide by all decisions rendered as part of a Misconduct Resolution Process.

The Parties' may also consult with an attorney, but that attorney may not be involved in the college's Misconduct Resolution Processes. In the very specific circumstance where the college has initiated a Misconduct Resolution Process while a criminal case arising out of the same alleged misconduct is pending against a student in court, the Parties' shall be allowed to have an attorney present during the college's Misconduct Resolution Process. Even then, any attorney retained by the Parties' has an extremely limited role as an advisor: the attorney may not make statements or ask questions during processes, but is simply available to advise the student during the process. Note that if a current member of the college community is otherwise eligible to serve as an Advisor to a student, that individual will remain eligible to serve as an Advisor

regardless of the individual's status as a practicing or non-practicing attorney, or of the individual's experience or education in the legal field.

In addition, the Respondent has the following rights:

- Notification of the allegation with sufficient specificity to allow for preparation to respond to the allegation;

In addition, the Complainant has the following rights:

- The right to bring to the attention of the MRC an incident of misconduct by a student. This does not include the right to insist on a particular type of resolution process;
- The right to be notified of the option to notify proper law enforcement authorities, including local police, and the option to be assisted by campus authorities in notifying such authorities, if the Complainant so chooses;

Bates' Responsibilities to Participants

Specifically, the institution has the following responsibilities to students participating in a resolution process:

- Investigating complaints in a timely fashion;
- Resolving most cases within 15 to 25 business days, except in the most exceptional circumstances;
- Maintaining privacy around all details of alleged misconduct and Resolution Processes in alignment with the Family Educational Rights and Privacy Act;
- Following all process as outlined in Part II: Student Misconduct Resolution Processes;
- Ensuring that Respondents and Complainants have access to the resources outlined in Part II: Student Misconduct Resolution Processes;
- Providing reasonable accommodations and support to individuals with disabilities and/or language barriers to ensure equal access to the college's resolution process;
- Ensuring that members of the Student Misconduct Resolution Team (SMRT) have adequate training for facilitating the resolution of allegations of student misconduct;
- Providing timely updates to all Respondents and Complainants participating in a Resolution Process;
- Responding to requests for Appeals in accordance with the procedures outlined in Part II: Student Misconduct Resolution Processes.

Student Misconduct Resolution Team members are responsible for facilitating the Misconduct Resolution Process, and therefore have the right to remove from the Misconduct Resolution Process any individual, including an attorney, whose conduct unduly interferes with the process. In the event that the Respondent plans to have an attorney attend a process, the Respondent must inform the MRC in a timely manner. The college reserves the right to also have its attorney present.

Resources

Respondents and Complainants are reminded that they have a number of resources available to them when instances of misconduct are being addressed by the college. As specified in the Rights and Responsibilities above, both have available to them the Process Educator as well as an Advisor from within the Bates

community. There are also resources outside the college of which they may avail themselves. Any person who feels they have been the victim of a crime always has the option of going to local law enforcement agencies and pursuing the case through the criminal court system.

Respondents or Complainants may benefit from professional support, including mental health support, throughout this process. Participants are encouraged to connect with appropriate resources to provide support. These resources are available through college as well as online and in the local community.