

# CHOATE ROSEMARY HALL SEXUAL MISCONDUCT POLICY

(REVISED 8/13/21)

## I. PURPOSE

The Statement on Character and The Statement of Expectations serve as cornerstones for the Choate Rosemary Hall community. They identify integrity, respect, and compassion as central elements of character, and they call for all members of the community to respect other people both within and beyond the School, to treat all human beings with dignity, to support and promote a school climate that does not discriminate against any individual or group, and to observe safe behavior and report unsafe conditions or practices. The School's Sexual Misconduct Policy ("Policy" or "SMP") is built on these bedrock values and makes clear the School's commitment to addressing sexual misconduct in all its forms and creating a safe campus environment for all. It is intended to provide a single, easily accessible document for members of the community that defines key terms and behaviors related to sexual misconduct and outlines procedures for reporting, investigating, and resolving cases of sexual misconduct.

The School does not tolerate sexual misconduct, including sexual harassment and sex discrimination, by students, faculty, or staff, regardless of gender identity or expression, or sexual orientation, whether on school property, on school-related trips off school property, at school-sponsored social functions, or within the "Reach" of the School. (See *Student Handbook* for details about the "Reach" of the School.) The School does not tolerate sexual misconduct directed towards students, faculty, or staff by vendors, contractors, or other third parties having agreements or contracts with the School, supporters of the School (donors, volunteers, alumni/ae, parents), or visitors to the School.

The Policy educates community members about sexual misconduct whether by students or adults, reporting mechanisms, and key contact numbers; establishes protocols for investigating and adjudicating reports of sexual misconduct; defines the consequences of sexual misconduct; articulates how the School shares information about sexual misconduct; and describes the standards the School adheres to for training community members in these matters. If a conflict should arise between this policy and other school procedures, rules, or regulations, the provisions of this policy will govern and supersede in cases of alleged sexual misconduct.

*Modifications of the policy as it relates to Choate Summer Programs, both on and off campus, are found in numbered notes in red within each pertinent sub-section of the policy.*

Student Sexual Misconduct violations overlap with Major School Rules, which address safety and other prohibited conduct, and the Honor Code, which addresses issues of integrity. Instead of categorizing student sexual misconduct as a Major School Rule violation or an Honor Code violation, the School identifies Sexual Misconduct as a separate category that is investigated by an outside investigator, whose findings are received and reviewed by the Review Board for Sexual Misconduct. Matters involving sexual harassment are handled in accordance with Student Handbook anti-discrimination policies. Where alleged misconduct may constitute both sexual harassment and sexual misconduct, the School will consider the totality of the circumstances and severity of the alleged misconduct and determine which process is most appropriate, reserving the procedures outlined in the Sexual Misconduct Policy for instances of more egregious violations.

*The School reserves the right to make changes in its policies, procedures, and standards as it deems necessary and will make reasonable efforts to provide notification to the community when a change has been made. If any provision of a school policy conflicts with other school rules, policies, or procedures, the School, subject to the limits of applicable law, will consider all relevant provisions in resolving the conflict as the School deems appropriate. Any allegation that is reported after the adoption of this policy will be handled in accordance with this current policy, regardless of when the misconduct is alleged to have occurred.*

*Nondiscrimination Policy: Choate Rosemary Hall prohibits in all its programs discrimination against or harassment of any member or group based upon age, gender, race, color, religion, disability, sexual orientation, gender identity or expression, national origin, genetic predisposition, ancestry, or other categories protected by Connecticut or federal law. It does not discriminate on these bases in the administration of its admission process, educational policies, scholarship and loan programs, athletics, or other school-administered programs.*

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### III. STUDENTS AND SEXUAL INTIMACY AT CHOATE ROSEMARY HALL

Though discouraged, the School does not prohibit sexual intimacy between students. Sexual intimacy, while a normal and healthy aspect of adult life, is a particularly complicated issue at Choate Rosemary Hall given the mission of the School, the living arrangements, the range of student ages, and the diversity of values and beliefs for students and their families; therefore, the School discourages sexual intimacy between students on campus and prohibits sexual intimacy, any kind of romantic relationship, or deep emotional attachments between adults and students.

Furthermore, concern for the emotional and physical welfare of Choate students is paramount and the School is committed to helping students avoid sexually transmitted infections, pregnancy, and emotional complications that can accompany sexual intimacy. Students with questions about these concerns should go to the Pratt Health Center for guidance and resources or reach out to Alexandra Copeland, Director of Health and Wellness Services, at (203) 697-2812 or [acopeland@choate.edu](mailto:acopeland@choate.edu).

Healthy romantic attachments do develop between students and the School seeks to support students as they search for appropriate ways to express affection towards one another while demonstrating respect for other members of our community.

The School has equal expectations for all students regardless of their sexual orientation [and gender identity?] and expects all students involved in romantic relationships to respect their partner's privacy and the privacy of others.

### IV. DEFINITIONS

*See Appendix A for additional definitions of terms from Connecticut State Law.*

#### **Complainant:**

aka: victim, alleged victim\*

The complainant is the individual who is the target of the alleged misconduct. If someone other than the complainant makes the initial report, that individual will be referred to as a third party reporter.

#### **Responding Party:**

aka: respondent, accused party, alleged perpetrator\*

The responding party is the individual alleged to have committed sexual misconduct.

*\*The use of any of these terms should not be construed as a pre-determination of responsibility.*

#### **Consent:**

For purposes of this Policy, the School defines consent in an effort to develop a common language and understanding to facilitate productive conversation that will help students throughout their lives. While it is important to understand what consent means and why it matters, the existence of consent between students does not mean that sexual activity is appropriate at Choate. A lack of consent, however, would result in a disciplinary response and possibly legal consequences including triggering Choate's responsibility as a mandated reporter.

Choate has established a standard of affirmative consent for sexual contact and sexual intercourse. Affirmative consent means an active, clear, and voluntary agreement, expressed through words or actions, by a person to engage in sexual activity with another person. The following statements expand upon that definition:

- consent is knowing, mutual, and conscious;
- consent cannot be provided by an individual who is asleep or otherwise mentally or physically incapacitated;
- consent cannot be inferred by the absence of "no;"
- consent must be on-going and can be revoked at any time by any person involved;
- consent cannot be obtained through coercion, which can be explicit as well as implicit;
- the existence of past consent does not mean consent exists in the present or future;
- consent to some acts does not indicate consent for all acts;

- when children younger than 16 are involved, there are situations where sex or sexual contact is illegal, even though both individuals agree to it. (*See following section on Statutory Rape.*)

### **Preponderance of the Evidence**

The standard of proof in deciding student disciplinary matters. This evidentiary standard requires that any decision-making determine that it is more likely than not that the alleged misconduct occurred.

### **Relationship Abuse:**

Relationship abuse, which includes dating violence, is a pattern of behaviors one person uses to gain and maintain power and control over their partner or former partner. Relationship abuse includes repeated use of physical violence, threats, intimidation, emotional abuse, manipulation, and isolation that results in physical or emotional harm to the partner. Examples of conduct that could be considered relationship abuse include, but are not limited to:

- Deliberately causing the partner bodily injury, pain, or impairment.
- Preventing a partner from seeing or talking with friends and family.
- Telling a partner what to do and wear.
- Blaming their own abusive or unhealthy behavior on a partner.
- Accusing a partner of cheating and being jealous of the partner's outside relationships.
- Damaging a partner's property when angry (throwing objects, punching walls, kicking doors, etc.).
- Calling the partner names and putting the partner down.
- Yelling and screaming at the partner.
- Intentionally embarrassing the partner in public.
- Threatening suicide or self-harm to keep a partner in the relationship.
- Making a partner feel guilty or immature when the partner doesn't consent to sexual activity.
- Constantly criticizing and berating a partner, saying the partner isn't good enough.
- Use of technologies such as texting and social networking to bully, harass, stalk, or intimidate a partner.

### **Sexual Assault:**

Sexual assault is defined according to state law and is a violation of the School's policies. Sexual assault consists of a range of behaviors from nonconsensual sexual contact to nonconsensual sexual intercourse. Sexual assault can also include conduct that may appear to be consensual but is considered coercive, and therefore illegal, based solely on the ages of the individuals involved or because there is an adult involved who is in a particular position of authority or influence over the student (such as a coach, teacher, or other individual identified under the law). (*See Appendix A: Connecticut State Law: Sexual Assault.*)

### **Sexual Contact:**

Sexual contact is any touching of the intimate parts of a person (the breasts, buttock, groin, or genitals), even if there is no penetration. This means any contact with the intimate parts of either the actor or the victim for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating the victim. (*Also defined in Appendix A.*)

### **Sexual Contests:**

Sexual contest describes circumstances when individuals compete with one another to achieve sexual goals or milestones. Examples of sexual contests include, but are not limited to, keeping lists of sexual exploits, winning a prize for accomplishing a sexual goal, or being expected to accept a consequence for failure to achieve a sexual goal.

### **Sexual Exploitation:**

Sexual exploitation is taking nonconsensual, unjust, or abusive advantage of another in a sexual or intimate context. Sexual exploitation includes, but is not limited to, prostituting another person; engaging in, permitting, reproducing, or facilitating nonconsensual viewing, videotaping, photographing, or audio taping of sexual or intimate activity (such as dressing, showering, toileting, or similar activity); knowingly infecting another person with a sexually transmitted infection.

**Sexual Harassment:**

In a school setting, sexual harassment is conduct that 1) is sexual in nature; 2) is unwelcome; and 3) has the purpose or effect of creating an intimidating, hostile, or offensive environment. Sexual harassment creates a hostile environment if the conduct is sufficiently severe, pervasive, and objectively offensive that it interferes with or limits a student's ability to participate in or benefit from the School's program. Sexual Harassment violates school rules and is addressed in the Student Handbook. Though sexual misconduct may be an egregious form of sexual harassment, only conduct alleged to meet the definition of sexual misconduct will be handled under Choate's Sexual Misconduct Policy. *(For more details, refer to the Student Handbook.)*

**Sexual Intercourse:**

Sex (sexual intercourse) means vaginal intercourse, anal intercourse, fellatio, or cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse, or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital, oral, or anal opening of the victim's body. *(Also defined in Appendix A.)*

**Sexual Misconduct:**

For purposes of Choate's policies, sexual misconduct is a broad term encompassing egregious forms of sexual harassment, including, but not limited to sexual assault, sexual abuse or molestation, sexual exploitation, stalking, dating violence, sexual contests, and any other form of non-consensual sexual contact. Retaliation against any persons reporting alleged sexual misconduct violations is against School policy and will result in disciplinary action.

**Stalking:**

Stalking is defined as a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of a third person, or to feel extreme emotional distress due to repetitive contact or the perception of such conduct. Stalking behaviors include, for example, nonconsensual communication by any means; use of surveillance in person or via electronic means; collecting information about a person's routine, friends, family, or coworkers; uninvited visits to a residence, workplace, classroom, house of worship, or other locations where an individual is commonly found. *(Also defined in Appendix A.)*

**Statutory Rape:**

There are some situations where having sex or sexual contact with someone is illegal and considered sexual assault, regardless of consent, based solely on the ages or the relationship of the two people involved. In Connecticut, a person commits statutory rape (a form of sexual assault) when he or she engages in sexual activity with someone: (1) under the age of 13 if the other person is more than two years older; or (2) who is 13 years of age or older but under 16 years old and the other person is at least three years older. As noted in the definition of sexual assault, it is also against the law to have sex or sexual contact with someone, regardless of the appearance of consent, if one person is in a position of power or influence over the other person, such as a coach, probation officer, therapist, or other individual identified under the law. It is expressly against the law for any school employee to have sex or any sexual contact with a student at his/her school. *(See Appendix A: Connecticut State Law: Sexual Assault.)*

## V. AMNESTY

Choate Rosemary Hall recognizes that a student or students in violation of a school rule (e.g. drugs, alcohol, parietyals, gross curfew, visitation) at or near the time of inappropriate intimidation, abusive conduct, sexual misconduct, etc. may be hesitant to report the behavior due to fear of potential consequences for violating a school rule. In cases where information about the incident would not otherwise be available to adults, the complainant, reporting bystander, or witness(es) may expect amnesty from potential discipline for breaking the school rule. (For example, a student subjected to sexual misconduct when under the influence of alcohol may report the incident without fearing punishment for the alcohol violation, if the School would not have otherwise known about it.) Out of concern for student welfare, violations of drug and alcohol rules will be referred for educational and counseling follow up.

## VI. PROCEDURES FOR REPORTING SEXUAL MISCONDUCT

Any member of the Choate community, including students as well as current faculty and staff, may make a report of sexual misconduct by contacting:

- Alexandra Copeland, Director of Health and Wellness Services, at (203) 697-2812 or [acopeland@choate.edu](mailto:acopeland@choate.edu)

### **Current Students**

Students may also make a report of sexual misconduct by contacting any of these Designated Report Takers among our faculty, who have been specifically trained to receive and respond to reports:

- Jim Davidson, at (203) 697-2790 or [jdavidson@choate.edu](mailto:jdavidson@choate.edu)
- Ellen Q. Devine, at (203) 697-2691 or [edevine@choate.edu](mailto:edevine@choate.edu)
- Colleen Kazar, at (203) 697-2211 or [ckazar@choate.edu](mailto:ckazar@choate.edu)
- Will Morris at (203) 697-2918 or [wmorris@choate.edu](mailto:wmorris@choate.edu)
- Rachel L. Myers Ph.D, at (203) 697-2390 or [rmyers@choate.edu](mailto:rmyers@choate.edu)

### **Current Student's Decision to Proceed with a Report**

A student who, in the process of making a report, decides they can't or don't want to continue with the report (or have changed their mind about making a formal complaint) can indeed make that decision not to continue. The student will, however, be referred to the Director of Counseling at the Pratt Health Center for emotional support. This could also include referral to outside support services. Depending on the information already shared with the School, and the individual circumstances involved, the School may take other actions it deems appropriate even without the further involvement of the reporting student.

### **Other Reporters**

Any former student, former faculty or staff member, or third parties who wish to report current instances of sexual misconduct should contact the Director of Health and Wellness Services.

Students who wish to report sexual misconduct involving an adult, or any person who is not a student or School employee (such as outside vendors, volunteers, parents, alumni, visitors) may contact the Director of Health and Wellness Services or Katie Levesque, Head of Student and Academic Life, at 203-697-2496 or [klevesque@choate.edu](mailto:klevesque@choate.edu). Reports involving adults or outside 3<sup>rd</sup> parties will be jointly coordinated by the Director of Health and Wellness Services and Ms. Levesque, who will work with the Director of Human Resources and/or other school officials as necessary to investigate, respond, and resolve such issues as appropriate.

### **Historic Reports**

Any community member – current or former students, faculty or staff members, or third parties – who wish to report historic instances of sexual misconduct should contact Katie Levesque, Head of Student and Academic Life, at 203-697-2496 or [klevesque@choate.edu](mailto:klevesque@choate.edu).

The School does not have authority to discipline former students. However, if the School receives a report alleging sexual misconduct by a former student, the School will review the allegation and determine if a report needs to be made to DCF and/or the police and whether any further action is warranted.

### **Alternative Contacts**

In the unlikely event that none of the above faculty can be reached, a student may reach out to any of the following individuals, who will connect them with one of the individuals identified above or other appropriate person:

- Choate Community Safety at (203) 697-2000 or (203) 697-2466,
- a Dean on Duty at (203) 430-0649 or (203) 430-1659 outside the academic day, or
- an adult on campus the student trusts.

### **Reports to the Police**

Members of the Choate community can file a criminal complaint by contacting the Wallingford Police at 135 N Main St, Wallingford, CT 06492 or (203) 294-2800, and in case of emergency, a call should be made to 911. Students who wish to notify law enforcement may request, and will receive assistance, from school officials (e.g. Student Advocate, report taker) in making

such a report. If an independently filed report first goes to the police, the reporting individual is also asked to make a report to Ms. Levesque.

### **Mandated Reporting and Reports from Peers**

If a School faculty or staff member has reasonable cause to suspect or believe that sexual misconduct has occurred, or if there is reason to believe that a student has been abused, neglected, or is placed in imminent risk of serious harm, that School faculty or staff member must report it to the Director of Health and Wellness Services and abide by the School's mandated reporting policy.

If a student has reasonable cause to suspect or believe that sexual misconduct has occurred to someone else, that student should report it to any of the adults listed above. Prefects who have reasonable cause to suspect or believe that a sexual assault has occurred are instructed to inform one of these adults as well as promptly as possible. If none of these adults can be reached, the prefect is instructed to contact Community Safety, the Dean on Duty, or an adult on campus they trust.

Students with concerns about peers who may be involved in an unhealthy relationship may speak with an adult they trust or any member of the Assessment Team. The Assessment Team is a group of faculty and fifth and sixth form students to whom anyone can go when concerned about a peer who may be experiencing problems or difficulties that put that student at risk. The Assessment Team will pass information about unhealthy relationships and possible sexual misconduct to a School counselor who will meet with the student who may be at risk to assess the situation. Information shared with the Assessment Team is kept confidential to the greatest extent possible under the circumstances presented.

When an allegation of sexual misconduct involves a student and there is reasonable suspicion of abuse or neglect as defined by law, the School has an obligation to make a report to the Connecticut Department of Children and Families (DCF) as required by law. (See *Appendix B*.) Such reports are also shared with the Wallingford Police. In addition, when the School makes a report to DCF, unless the allegation involves a parent or guardian, the School most often also informs the parents of a student alleged to have been a victim of abuse or neglect.

### **Knowingly Making a False Report**

Making an intentionally false report violates Choate's Honor Code and Statement of Expectations. False reports are defined as the act of making deliberate false and/or malicious accusations of policy violations to the School, which differ from allegations made in good faith. A report is not considered false merely because it is deemed to be without merit, unsubstantiated or there is insufficient evidence to provide a violation of this Policy.

*Note 1: During Choate Summer Programs, both on and off campus, the Director of Health and Wellness Services or their designee is available to take any of the reports described above.*

*Note 2: The Assessment Team does not convene in the summer. Concerns about a peer participating in any Choate summer program should be shared with a trusted adult affiliated with that program.*

## **VII. CONFIDENTIALITY**

All complaints of sexual misconduct will be kept private to the greatest extent possible, but anyone who reports an incident of sexual misconduct must understand that to conduct a formal investigation, the responding student will need to be informed of the nature of the reported misconduct as well as the identity of the complainant (i.e. the individual who is the target of the alleged misconduct). Anyone involved in the investigation of sexual misconduct, including the complainant and responding student, witnesses, and members of the faculty who may have knowledge about the event, are expected to honor the privacy of those involved and the confidentiality of the process. The responding student or other students involved in the investigation process may not share the reported victim's name or discuss the details of any complaint with anyone other than their family members/guardian, advocate, health services counselor, form dean, and faculty adviser, except as specifically permitted as part of the investigation and review process described in this policy. Relevant information about the complaint will be shared on a need to know basis and will likely include sharing with such individuals as the investigators, advocates, relevant Senior Officers of the School, and members of the Review Board for Sexual Misconduct to appropriately and adequately investigate and respond to complaints. In some cases, members of the Board of Trustees may also be informed of sexual misconduct reports. Any individual involved in the complaint process will be advised that the information is private and confidential and that a breach of

confidentiality associated with any part of the investigation and its resolution is grounds for disciplinary action up to and including dismissal for students and termination of employment for adults.

If investigation results in major discipline for a student (probation, suspension, or dismissal), the Dean of Students will report the responsible student's name, the charge (complaint), and the disciplinary consequence to the faculty. Minimally necessary details will be included but the name of the complainant and other students involved in the investigation will not be revealed. As with all other situations, the School reserves the right, in limited circumstances related to health and safety, to disclose information as needed to safeguard the Choate Rosemary Hall community or to protect the wellbeing of an identifiable individual in response to a specific or identified threat. Such disclosures would not include the identity of any complainant.

It is vital that any individual who feels victimized by sexual misconduct fully comprehend that the School and its representatives have a legal and ethical obligation to report incidents of sexual misconduct, investigate them, and resolve them as soon as possible. For this reason, though privacy will be respected, complete confidentiality cannot be guaranteed.

*Note 3: When a complaint of sexual misconduct occurs during any Choate summer program, appropriate school personnel are notified, e.g. Head of Student and Academic Life, Head of School, and/or others.*

*Note 4: Should any student participating in a Choate summer program report being subjected to inappropriate sexual conduct or be accused of violating this policy, the program informs that student's parents.*

## **VIII. NON-RETALIATION**

Choate Rosemary Hall will not retaliate against any individual who makes a complaint or who assists in investigating a complaint, nor will the School tolerate any other person, including anyone accused, doing so.

Retaliation against any student who makes a complaint or assists in the investigation of a complaint under this policy is strictly prohibited. The School will not tolerate anyone in our community engaging in any behavior toward the reporting student or others that could be considered retaliatory in nature, including conduct that has the purpose or effect of causing harm, embarrassment, or discomfort. Complaints of alleged retaliation will be investigated promptly and anyone who violates this policy will be subject to disciplinary action up to possible dismissal.

## **IX. RESPONDING TO SEXUAL MISCONDUCT REPORTS**

The following procedures outline the School's typical process in responding to reports of sexual misconduct involving students. If a report involves an adult or individual outside the Choate community, the School implements alternative procedures to investigate and respond to such a report as appropriate based on the nature of the complaint. The School reserves the right to modify these procedures as may be needed to act in the best interest of the persons involved or due to other extenuating factors as determined by the School in its sole discretion.

### **IMMEDIATE RESPONSE**

#### **After a report is received**

- The faculty member who received the report confers with the Director of Health and Wellness Services and Dean of Students to determine next steps. If the Director of Health and Wellness Services received the report, the Director of Health and Wellness Services or designee consults with the Dean of Students.
- The complainant is referred to the Pratt Health Center on campus for immediate physical support if needed and/or to the Director of Counseling at the Pratt Health Center for emotional support.
- In consultation with the Head of School if necessary, the Head of Student and Academic Life and Dean of Students assess the safety of the complainant and consider if there are any safety issues to the community, whether the report requires a formal investigation or if an alternative intervention is appropriate.
- The Dean of Students meets with the form deans of the complainant and responding student to share the general nature of what has been reported. Should the reporting and responding students have the same form dean, the Dean of Students will appoint a different form dean to work with one of the students.

- The School notifies the responding student within a reasonable amount of time that a complaint has been made.
- The Director of Health and Wellness Services, in consultation with the Dean of Students, assigns a Student Advocate to each of the students, the complainant and the responding student, who supports them throughout the process. (See Section XIII below.)

#### **If the complainant needs medical attention**

- The student will be taken to the Pediatric Emergency Department at Yale New Haven Hospital, 1 Park Street, New Haven, (203) 688-3333. A member of the Choate Health Services team or an on-campus Student Advocate will accompany the student and will remain with the student until a parent or guardian arrives, the student has been admitted, or until the student has been examined and discharged to the care of the parent/ guardian or to the care of the School.

#### **Mandated reporter obligations and the Connecticut Department of Children and Families (DCF)**

- Any time any school employee receives a report of alleged sexual misconduct, the school employee and/or the School must consider whether or not there is an obligation as a mandated reporter to report allegations to the Connecticut Department of Children and Families (DCF) and/or to the police. (See *Appendix B*.) If a report is required, the Director of Health and Wellness Services will make such reports on behalf of any mandated reporter and the School, though this does not preclude a mandated reporter from making an individual report at any time in accordance with the School's mandated reporting policy.
- As noted in section VI, when a report is made to DCF, the School shares the report with the Wallingford Police.
- When a report is made to DCF, the School will exercise its discretion and consider the totality of the circumstances in determining whether to contact the student's parents/guardians. In most cases, unless a complaint involves an allegation against a parent/guardian, the School typically informs the parents/guardian of the reporting student that a report has been made. If the allegation involves alleged misconduct by a School employee, the School will always contact the Student's parents/guardian.

#### **INTERIM MEASURES**

Depending on the nature of the incident and its impact on the complainant, the School may consider a number of interim measures, for example:

**Academic:** rescheduling assessments, providing extensions for papers, tests and presentations, forgiving assignments, changing the class schedule for either the complainant or respondent.

**Housing:** providing alternative housing arrangements if available.

**Non-contact Agreement:** working out a plan for the complainant and responding students to avoid one another to the fullest extent possible.

**Counseling and Medical Services:** working with the Health Services Team to provide appropriate professional counseling and medical services as needed.

**Dean's Leave:** an involuntary non-medical, non-disciplinary leave of absence, imposed at the discretion of the Dean of Students. The School will make efforts to support the student in continuing to complete academic work off campus to the extent possible. (Refer to the *Student Handbook*.)

**Leave of Absence:** an absence from school for a period of time that is granted, required, or otherwise authorized by the School in accordance with the *Student Handbook*.

## **X. FORMAL INVESTIGATION PROCESS**

### **Overview of Process**

- The decision to initiate a formal investigation depends on various factors, which may include the complainant's desire to pursue a complaint, the assessed risk of not proceeding further, and the nature of the allegation.

- The School's investigation will defer to investigations by outside agencies. The School will not interfere with any ongoing investigations by police and/or DCF. *(See specifics below, in the section on Working with Law Enforcement and the Department of Children and Family Services)*
- If, after initial review, and considering the totality of the circumstances, the Head of Student and Academic Life in conjunction with the Dean of Students, Review Board Chair, and Vice Chair concludes that there is sufficient information to suggest that a violation of the sexual misconduct policy may have occurred, the School will start a formal investigation process using an outside investigator.
- The investigator conducts an impartial fact finding and reports the findings to the Review Board for Sexual Misconduct (Review Board). *(See Section XI below.)*
- The Review Board reviews the findings of fact in light of the School's policies and determines whether, based upon a preponderance of evidence standard, School policy has been violated.
- If the Review Board concludes that there has been a violation of the Sexual Misconduct Policy, the Review Board makes a recommendation for discipline or other interventions as appropriate to the Dean of Students.
- The Dean of Students may accept, reject, or modify the recommendation of the Review Board.
- Further information regarding the details of this process are outlined below.

### **The complainant**

- The form dean (or the assigned dean) of the complainant meets with the student and shares next steps. These include offering the student an on-campus Student Advocate, whose role is to offer and provide support to the complainant throughout the entire process; the dean includes the advocate as much as possible in all conversations with the student. *(See Section XIII below.)*
- The form dean confirms the complainant received a copy of the Sexual Misconduct Policy at the time of the report.
- The form dean and the advocate together keep the complainant and their parents or guardian apprised of the investigation and answer any questions they might have as the process advances.

### **The responding student**

- If the School determines that a formal investigation is appropriate, the form dean (or the assigned dean) meets with the responding student who is told that a report has been made and who the complainant is. The student is provided with a brief written summary of the complaint, which includes the general nature of the alleged misconduct, and the time and location, if known, and is told that a formal investigation will be conducted. Although the responding student is informed as to the identity of the complainant, the name of the complainant shall not be included in the summary complaint. The responding student shall be reminded of the confidentiality and non-retaliation provisions of this policy.
- At this time, the responding student is offered an on-campus Student Advocate, whose role is to offer and provide support to the responding student throughout the entire process; the dean includes the advocate as much as possible in all conversations with the student. *(See Section XIII below.)*
- The form dean refers the responding student to the Director of Counseling for emotional support.
- The form dean also provides the responding student with their own copy of the Sexual Misconduct Policy.
- The dean reaches out to the responding student's parents or guardian at this time as well. Between them, the dean and advocate keep the responding student and their parents or guardian apprised of the investigation and answer any questions they might have as the process advances.

### **The investigation**

- Choate appoints an impartial investigator to conduct the formal investigation.
  - A summary of the complaint (the same as that provided the responding student) is provided to the investigator to guide the investigation, along with the name of the complainant.

- The role of the investigator is to act as an impartial fact finder, gather relevant evidence regarding the complaint, and conduct a complete and thorough investigation of the allegations.
  - The investigator determines the timeline of an investigation, which may be extended for good reason at the discretion of the investigator.
  - As the investigator coordinates the interviews and the gathering of information, the investigator may consult as necessary with the Head of Student and Academic Life and Chair of the Review Board regarding process or procedural matters.
- In the instance the complainant changes their mind after the investigation is launched and expresses a clear desire not to proceed with a formal investigation, the School will, in most cases, withdraw the complaint, cease the investigation process, and provide any supports or other interventions that may be appropriate under the circumstances. However, though the School will most often defer to the wishes of the complainant, under certain circumstances, the School reserves the right to continue its investigation process if, in the discretion of the School, the nature of the allegations, seriousness of alleged misconduct, and/or availability of corroborating information are sufficient to justify proceeding without the assistance and/or involvement of the complainant.
  - The investigator conducts interviews of the complainant and respondent, as well as of relevant witnesses. The investigator also collects any relevant evidence, including documentary evidence (e.g., copies of text messages, social media posts) and has access to all relevant School information, including pertinent records and documentary and other evidence relevant to the allegations.
  - If, during an investigation, additional allegations arise involving the same complainant and respondent that are beyond the scope of the initial complaint, such allegations will be treated as a new complaint. The investigator shall have discretion to consolidate complaints and expand the scope of investigation when complaints share common parties or events. Any allegations that are outside of the SMP will be referred to the Dean of Students for appropriate follow-up.
  - Once the investigator has determined the investigation process to be complete, the investigator makes findings of fact regarding the factual assertions and credibility of witnesses. In making factual findings, the investigator will utilize a preponderance of evidence standard.
  - The investigator submits and/or shares the findings of fact with the complainant, respondent, and Review Board. The findings are shared with each student through their dean (or assigned dean) who is available to explain and discuss the proposed findings with the student. The complainant and responding student shall be reminded of the confidentiality and non-retaliatoin provisions of this policy.
  - The investigator has discretion to extend the investigation at any time upon the discovery of new and materially relevant information that warrants further follow up and investigation.
  - Once the findings of fact are shared with the Review Board, the complainant and respondent are advised by their respective deans or advocates that they may each submit a supplemental statement, should they wish to do so, to the Review Board. Such supplemental statements must be in writing and will be considered by the Review Board only if, and after, it concludes that the respondent is responsible for sexual misconduct under this policy and are considered only for purposes of making a recommendation for discipline or sanctions.

### **Student participation in the Investigation**

- As with any student participating in a disciplinary investigation, the complainant and responding student are given an opportunity to respond to allegations and questions by talking with the investigator and may provide the investigator with any relevant information. Neither student is required to respond on their own behalf should they decline to do so. However, as is also the case during investigations, each student is expected to be truthful in their responses and to cooperate fully with requests to search or provide access to potential evidence or other information within the student's control, such as access to text messages, social media posts, etc.
- When meeting with the investigator, a student (the complainant, the responding student, and/or any witness(es)) may elect to have their dean, advocate, adviser, or other trusted Choate adult present in the room with them. No parents (even if a

faculty member), family members, lawyers, or any other individuals except those specifically identified above are permitted to participate or sit in on any meeting or conversation related to an investigation.

- Failure to cooperate in an investigation by refusing to comply with a request to provide access to information or other physical evidence is a violation of school rules and the student will be required to withdraw from the School. Even if the complainant or responding student declines to participate in the investigation, the School reserves the right to conduct and complete a formal investigation and complete the formal complaint process.
- If a formal investigation has been initiated, a responding student may withdraw from School during the investigation and before the investigator's findings are shared with the Review Board, unless there is already compelling physical evidence and/or corroborating information such as credible statements from other parties to support a clear violation of the Sexual Misconduct Policy without the Review Board convening. In the event of withdrawal, the investigation will end without a disciplinary finding; however, internal school records in the responding student's file will reflect that the student was "withdrawn under disciplinary investigation," though, per School policy, a transcript for a student who has withdrawn from the School will indicate only that the student has "withdrawn" with the effective date of withdrawal. Once the investigator's findings are shared with the Review Board, the Review Board will issue its conclusions, which will be binding on a student and reflected in appropriate student records, regardless of any subsequent withdrawal from School.

### **Working with Law Enforcement and the Department of Children and Family Services (DCF)**

The School recognizes the need to coordinate with the police and DCF in the conduct of concurrent investigations. However, the filing of a criminal complaint or conduct of a criminal investigation does not affect the School's intention to investigate allegations of sexual misconduct.

The School will recognize and comply with requests by a law enforcement agency for information and cooperation. Such requests may require the School to suspend its investigation temporarily while the law enforcement agency gathers information. During the temporary suspension, interim measures to protect the reporting party may be implemented or continued as applicable.

The School will promptly resume its full investigation upon receipt of notification by the law enforcement agency that it has completed the evidence gathering process and will inform the parties that the investigation has resumed.

The result of an investigation by the police or DCF will be considered by the School but are not necessarily determinative of whether the incident of sexual misconduct violates the School's policy (e.g., it is possible for an incident of sexual misconduct to violate school policy even when law enforcement does not complete an investigation, determines that there is insufficient evidence to prove a crime occurred, or that the individual is not criminally responsible for the alleged misconduct).

*Note 5: Given the unique structure and staffing for Choate Summer Programs, each of Choate's Summer Programs determines the appropriate process for investigations of alleged student sexual misconduct depending on the nature of the allegation and available personnel. In all instances, the process shall balance the rights of all parties involved, taking steps to maintain student privacy. The form that investigations take is determined at the time of the report in consultation with the Head of Student and Academic Life.*

## **XI. THE REVIEW BOARD FOR SEXUAL MISCONDUCT**

The role of the Review Board for Sexual Misconduct is to receive the findings of fact from the investigator, consider the findings in light of the School's policies, and make a recommendation for outcome to the Dean of Students based on such findings.

### **Membership**

The Review Board for Sexual Misconduct has five voting members and one non-voting member.

- The voting members are the Chair (Amy Salot) and Vice Chair (Mo Zelaya), appointed by the Dean of Students in consultation with the Head of School and other Senior Officers; the Head of Student and Academic Life; and two members that vary from hearing to hearing, selected from the eight form deans and Associate Dean of Students. (The dean of either the complainant or responding student cannot be a voting member.) These two members are selected by the Dean of Students in consultation with the permanent members of the Review Board when an investigation begins.

- The Chair, with the Head of Student and Academic Life, helps guide the process prior to the Review Board convening, ensures that proper procedures are adhered to, and runs all meetings. If the Chair should experience a conflict of interest in a case, the Chair's role will be filled by the Vice Chair.
- The Vice Chair serves as the Review Board's scribe and maintains a database of precedent to educate new members, ensure as much consistency in recommendations as is reasonably possible, and to inform recommendations of cases under review. If the Vice Chair should experience a conflict of interest in a case, the role will be filled by the Associate Dean of Students or a form dean appointed by the Dean of Students.
- The non-voting member is the Dean of Students, who attends all hearings as an observer. If the Dean of Students should experience a conflict of interest in a case, the role will be filled by the Associate Dean of Students.
- In the event any of the appointed members of the Review Board are unavailable and/or unable to serve for reason other than conflict, the Head of Student and Academic Life or his/her designee will appoint an appropriate replacement.

## Process

- The Review Board may ask questions of the investigator and/or request that the investigator engage in follow-up investigation if necessary and relevant to the decision-making process.
- The Review Board does not engage in further investigation, does not hear additional witness statements, nor does it consider any new evidence that has not yet been shared with the investigator.
- Review Board hearings are confidential; they are not open to parents (even if a faculty member), family members, lawyers, or any other individuals except those specifically identified above. In addition, all Review Board members and faculty members involved with a case are honor bound not to reveal to others outside the Board specific statements, votes, or opinions of individual members, including themselves.
- Upon conclusion of the Review Board's review of the investigator's findings, consideration of School policy, and consideration of any supplemental statements by the parties, the Review Board makes a determination as to whether Choate's Sexual Misconduct Policy has been violated and if so, makes a recommendation for response.
  - If the allegation cannot be substantiated by a preponderance of the evidence, or if the conduct even if substantiated does not violate the Sexual Misconduct Policy, the matter may be dismissed, with no further action, or may be addressed through alternative interventions. (*See Section XII below.*)
  - If the conduct as alleged does not violate the Sexual Misconduct Policy but may violate other School rules, the matter will be referred to the Dean's Office for further review and response.
  - If, however, the Review Board concludes, based on the findings of fact, that the respondent violated the Sexual Misconduct Policy, the Review Board issues a finding that the respondent is responsible for such misconduct and makes a recommendation to the Dean of Students for appropriate discipline and/or other intervention.
    - In considering the recommendation for discipline, the Review Board may consider the student's prior disciplinary and academic record and other mitigating factors.
    - In determining an appropriate sanction, the Review Board may also consider any supplemental statements submitted by the complainant and respondent, should they choose to submit such statements.
- The Dean of Students accepts, alters, or rejects the recommendation of the Review Board. The Dean of Students' decision is final.
- Appeals of the Dean of Students' decision may only be made based on questions of process and should be submitted in writing to the Head of Student and Academic Life.
- The Dean of Students may appoint an ad hoc form of the Review Board when scheduling difficulties prevent the Board from meeting, e.g., when a violation is reported after students and faculty have departed at the end of the school year.

## Sanctions

- In cases where the Review Board makes a determination that the responding student has violated Choate's Sexual Misconduct Policy, the student should expect a major disciplinary response, up to and including possible dismissal from school. The specific sanction may vary depending on the particular circumstances of each case. *(For information about Disciplinary Definitions, refer to the Student Handbook.)*

## Post Review Board Meeting

The Dean of Students decides whether to accept, modify, or reject the recommendation, then shares that decision with the Head of School, Head of Student and Academic Life, Review Board Chair, and the responding and reporting students' deans. The two deans arrange to let the complainant and respondent know the decision at the same time, each with their respective advocate present. As soon as is reasonably possible, each dean also informs each student's parents/guardian and the adviser.

Only the Dean of Students, Dean of Students' designee, or Head of School may share information about the case with the faculty.

Once a case has been adjudicated, it is expected that it will not be reopened. In rare instances, if the School learns that information that was material to the outcome was overlooked, the School may, at its sole discretion, decide to conduct a new hearing or issue immediate disciplinary action. Such decision should occur only under extraordinary circumstances and only if the responding student is still a Choate student.

Disciplinary decisions are not subject to appeal, except based on questions of procedure that may have materially altered the outcome of the proceedings.

The School will maintain a limited record of the Formal Complaint Process, including the Review Board proceedings, consisting only of the documented complaint (charge), the investigator's findings of facts, the recommendation made by the Review Board to the Dean of Students, and the final decision issued by the Dean of Students. The record is considered confidential student information and is maintained, whether in the student's file and/or elsewhere, in accordance with the School's record retention policy regarding sexual misconduct reports and investigations. The School will not share confidential information regarding students except as permitted under Choate policy or otherwise required by law.

*Note 6: The Review Board does not convene during Summer Programs; the form that investigations of student sexual misconduct take during Choate Summer Programs, on and off campus, are determined at the time of the report and involve School personnel available at that time.*

## XII. ALTERNATIVE INTERVENTIONS

There may be times when a student or other individual shares information with the School or makes a report regarding another student's behavior that is concerning and requires intervention, but it is not immediately evident from what has been shared that a formal investigation is required or that the conduct is a violation of the Sexual Misconduct Policy. It is also possible that an investigation finds that the substantiated conduct does not violate the Sexual Misconduct Policy yet still merits follow-up. In such cases, the School may elect to refer the concern to the Deans' Office for further review, or engage involved students in educational discussions about why certain behavior is making another feel uncomfortable, understanding the rules surrounding sexual misconduct, or other similar issues. Additional non-disciplinary interventions might include counseling and other interim supports. These alternatives are never appropriate for substantiated reports of sexual assault, nonconsensual sexual contact, misconduct by an adult toward a student, or other behavior that clearly amounts to sexual misconduct as defined by this policy.

These alternative interventions are overseen by the Head of Student and Academic Life in conjunction with the appropriate form dean(s) and the adviser or an advocate for any student(s) involved. At any point during this process, the School may determine that a formal investigation is warranted, or that the conduct in question violates other school rules, apart from those outlined in this policy. In those cases, the School will follow appropriate investigation and discipline processes.

## XIII. STUDENT ADVOCATES

The Student Advocates provide support for the complainant and responding students, serving as liaisons for communications, attending meetings involving the student, and making themselves available to answer questions about process, collaborating in

this with the form dean as the investigation and review advance. They do not represent the student at any hearing or assist in the investigation process in any way.

Advocates are selected from a group of trusted adult members of the community who are trained to work with students involved with sexual misconduct cases and are well versed with the School's Sexual Misconduct Policy.

**Student Advocates for 2021-2022:**

- Diana Beste, Language
- Aliya Cox, Athletics
- Jim Davidson, HPRSS
- Tim Eash, College Counseling
- Katrina Linthorst Homan, Science
- Claire Minneman, College Counseling
- Julie Oxborough, Science
- Helene Ramirez Guerra, Admission
- Ian Wollman, Language

In order to fulfill their responsibilities, the Advocate:

- is present with the student during investigation interviews;
- provides information about support services and helps connect students with support services;
- shares key contact information, including phone numbers, so the student can be in touch when needed;
- assists the form dean in providing information about the reporting, investigation, and review process;
- remains in phone contact as necessary with the student's parent(s) or guardian(s) throughout the process;
- accompanies a reporting student on possible trips to medical appointments or the hospital.

During investigation interviews and the Review Board process Student Advocates are present to support students, not to determine the outcome or to present evidence. During an interview or before the Review Board, a Student Advocate may read a statement written by the student if the student chooses not to read their own statement but may not present other information on the student's behalf and may not interfere with either the investigation or review. Advocates do not participate in discussions regarding appropriate sanctions.

The Student Advocate role is an ad-hoc, part-time responsibility that may be taken on by members of the Choate Rosemary Hall faculty or staff, but not by anyone outside the community. Members of the advocate group will not be assigned to a case if a potential conflict of interest exists. The Director of Health and Wellness Services works with Student Advocates, who participate in sexual misconduct training on campus.

## **XIV. SHARING INFORMATION ABOUT SEXUAL MISCONDUCT CASES**

When a student is found responsible for sexual misconduct and is dismissed or withdraws while under investigation for sexual misconduct, the School can not provide any recommendations for the student without a signed Release of Information. The Associate Head maintains current and historical records of student sexual misconduct investigations, including reports made to the Connecticut Department of Children and Families (DCF) and equivalent agencies. Educational institutions requesting the transcript of a student involved in such an investigation will be informed about discipline in accordance with Choate's college counseling policies. For details about sharing information within the Choate Rosemary Hall community, refer to section VII on Confidentiality.

## **XV. PREVENTION EFFORTS**

The School strives to create a campus environment in which everyone is safe from sexual misconduct. In an effort to achieve this goal, the School maintains open avenues for reporting sexual misconduct, follows through with investigation in a timely manner, regularly evaluates campus culture, annually evaluates all spaces on campus to identify potentially unsafe locations, annually reviews the sexual misconduct policy and makes adjustments to it as needed, and monitors state and federal law. In addition, initial and periodic background checks are conducted on all adult members of the community and regular training is provided for faculty and staff. Efforts to maintain a safe campus environment are also made through the admission process, health and wellness education program, annual training for all students, and specific training for prefects, those in the Bystander Education Program, and members of the Assessment Team.

## **TRAINING**

Every year all school employees are required to read the Statement of Expectations. On a regular and rotating basis, school employees undergo training regarding harassment, mandated reporting responsibilities, confidentiality, amnesty, retaliation, and/or sexual misconduct. In addition, all faculty members and those staff likely to receive sexual misconduct reports (e.g. community safety officers and health center staff) are taught how to act in a victim-centered manner, to whom to refer the individual to make a report, and where to direct a victim for support. All new employees participate in training that addresses issues related to boundaries and sexual misconduct (e.g. sexual harassment, mandated reporting, etc.) within their first 60 days working at Choate. Faculty who work in dorms, form deans, community safety officers, and members of the Health Services team and Health Center staff are trained as first responders.

Certain groups on campus (e.g. the Health Center staff, form deans, and community safety officers) receive additional training specific to their responsibilities. The Health Center staff, along with members of the Spiritual Life team, who sometimes serve as counselors, are trained on how to support sexual assault victims, who to inform about a sexual assault, where sexual assault victims go for medical care, and where victims can go for other support services. This training is required within the first month for all new hires, and annual training about responding to sexual assault cases and providing updated information about local sexual assault support programs is provided for the counseling team, school doctor, and nurse practitioner.

All new form deans complete training that includes detailed information about the sexual misconduct policy, teaches them how to be a first responder, prepares them to support the investigation and review of sexual misconduct cases, and helps them understand how to provide trauma-informed care. Training is provided for deans on a regular basis.

## **STUDENTS**

### **Admission process**

With respect to incoming students, the Admission Office will contact sending schools to request information regarding disciplinary cases that are reported to Choate during the application process. If school officials from a student's current school are unwilling or unable to provide clarity regarding the incident that led to the applicant's disciplinary sanction, the Admission Office will seek clarity from the family.

If a complete and candid account of the disciplinary event is not provided, Choate will not consider the application for admission. Students disciplined at other schools for sexual assault will not be admitted to Choate if such offense is known to Choate. If sexual misconduct at a previous school is discovered after the completion of the admission process, the School reserves the right to rescind the offer of admission or dismiss the student from Choate.

Sometimes incidents of sexual misconduct that are non-disciplinary in nature are shared during the application process, e.g., during the interview, in the applicant essays, in the parent/guardian statement, and/or in teacher recommendations. When this happens, the Director of Admission will reach out to the family to discuss the situation.

### **Health and Wellness Education Program**

The Life Long Wellness curriculum covers topics related to human sexuality and sexual misconduct that include, but are not limited to, healthy relationships, consent, sexual assault, sexually transmitted infections, and birth control. Life Long Wellness classes are also designed to help strengthen bystander intervention skills, train students how to report sexual misconduct, and inform students about victim support resources available on and off campus.

### **Health Services Team**

An on-campus team of professionals provides health and counseling support for students. To appropriately serve the students, the School endeavors to maintain a Health Services team that reflects the diversity of backgrounds of the student body. The Health Services team plays an active role in sexual assault awareness and the School's Health and Wellness Education Program. In addition, Health Services educates students, so they understand policies and goals of the Health Center and know what happens when the Health Services team receives a report of sexual misconduct.

### **Education and Training**

Each academic year, students take part in conversations to review the School's Sexual Misconduct Policy and expectations around consent, healthy relationships, appropriate boundaries, bystander intervention, and sexual misconduct reporting. Such conversations are tailored to specific age groups with younger students receiving general, developmentally appropriate information and older students receiving additional guidance for navigating sexual boundaries. The School endeavors to schedule biennial educational programs that focus on topics related to sexual misconduct. Additionally, prefects and Assessment Team members, whose positions as student leaders increase the possibility that they will learn of sexual misconduct, receive specific training about how to respond if they have reason to believe sexual misconduct has occurred.

*Note 7: Education and training occur during Choate Summer Programs, though the form they take differs from that conducted during the academic year.*

# APPENDIX A: CONNECTICUT STATE LAW: SEXUAL ASSAULT

## SEXUAL ASSAULT:

*Definition of terms from CT State Law – Section 53a-65*

**Sec. 53a-65. Definitions.** As used in this part, the following terms have the following meanings:

- (1) "Actor" means a person accused of sexual assault.
- (2) "Sexual intercourse" means vaginal intercourse, anal intercourse, fellatio, or cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse, or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body.
- (3) "Sexual contact" means any contact with the intimate parts of a person for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.
- (4) "Impaired because of mental disability or disease" means that a person suffers from a mental disability or disease which renders such person incapable of appraising the nature of such person's conduct.
- (5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling such person's conduct owing to the influence of a drug or intoxicating substance administered to such person without such person's consent, or owing to any other act committed upon such person without such person's consent.
- (6) "Physically helpless" means that a person is (A) unconscious, or (B) for any other reason, is physically unable to resist an act of sexual intercourse or sexual contact or to communicate unwillingness to an act of sexual intercourse or sexual contact.
- (7) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.
- (8) "Intimate parts" means the genital area or any substance emitted therefrom, groin, anus or any substance emitted therefrom, inner thighs, buttocks, or breasts.
- (9) "Psychotherapist" means a physician, psychologist, nurse, substance abuse counselor, social worker, clergyman, marital and family therapist, mental health service provider, hypnotist, or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.
- (10) "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.
- (11) "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the patient or former patient is unable to withhold consent to sexual contact by or sexual intercourse with the psychotherapist.
- (12) "Therapeutic deception" means a representation by a psychotherapist that sexual contact by or sexual intercourse with the psychotherapist is consistent with or part of the patient's treatment.
- (13) "School employee" means: (A) A teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional, or coach employed by a local or regional board of education or a private elementary, middle, or high school or working in a public or private elementary, middle, or high school; or (B) any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle, or high school, pursuant to a contract with a local or regional board of education, or (ii) a private elementary, middle, or high school, pursuant to a contract with the supervisory agent of such private school.

**FROM CONN. GEN. STAT. 53A-70 THROUGH 73A**

## **SEXUAL ASSAULT IN THE FIRST DEGREE**

*A person is guilty of sexual assault in the first degree when such person:*

- Compels another person to engage in sexual intercourse by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person which reasonably causes such person to fear physical injury to such person or a third person (if the victim is under 16 this is a class A felony subject to a sentencing enhancement);
- Engages in sexual intercourse with another person and such other person is under 13 years of age and the actor is more than two years older than such person (class A felony subject to a sentencing enhancement);
- Commits sexual assault in the second degree (§ 53a-71) and in the commission of such offense is aided by two or more other persons actually present; or
- Engages in sexual intercourse with another person and such other person is mentally incapacitated to the extent that such other person is unable to consent to such intercourse.

## **AGGRAVATED SEXUAL ASSAULT IN THE FIRST DEGREE**

*A person is guilty of aggravated sexual assault in the first degree when such person commits sexual assault in the first degree (§ 53a-70), and in the commission of such offense:*

- Uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a deadly weapon;
- With intent to disfigure the victim seriously or permanently, or to destroy, amputate or disable permanently a member or organ of the victim's body, such person causes such injury to such victim;
- Under circumstances evincing an extreme indifference to human life such person recklessly engages in conduct which creates a risk of death to the victim, and thereby causes serious physical injury to such victim; or
- Such person is aided by two or more other persons actually present.

## **SEXUAL ASSAULT IN THE SECOND DEGREE**

*A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and:*

- Such other person is 13 years of age or older but under 16 years of age and the actor is more than three years older than such other person;
- Such other person is impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse;
- Such other person is physically helpless;
- Such other person is less than 18 years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare;
- Such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person;
- The actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception;
- The actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional;
- The actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor;

- The actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is the recipient of such coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under 18 years of age;
- The actor is 20 years of age or older and stands in a position of power, authority, or supervision over such other person who by virtue of the actor's professional, legal, occupational, or volunteer status and such other person's participation in a program or activity, and such other person is under 18 years of age; or
- Such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

### **SEXUAL ASSAULT IN THE THIRD DEGREE**

*A person is guilty of sexual assault in the third degree when such person:*

- Compels another person to submit to sexual contact (A) by the use of force against such other person or a third person, or (B) by the threat of use of force against such other person or against a third person, which reasonably causes such other person to fear physical injury to himself or herself or a third person;
- Subjects another person to sexual contact and such other person is mentally incapacitated or impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual conduct; or
- Engages in sexual intercourse with another person whom the actor knows to be the actor's parent, grandparent, child, grandchild, sibling, parent's sibling, sibling's child, stepparent or stepchild.

### **SEXUAL ASSAULT IN THE FOURTH DEGREE**

*A person is guilty of sexual assault in the fourth degree when:*

- Such person subjects another person to sexual contact who is (A) under 13 years of age and the actor is more than two years older than such other person; or (B) 13 years of age or older but under 15 years of age and the actor is more than three years older than such other person; or (C) physically helpless; or (D) less than 18 years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare; or (E) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person;
- Such person subjects another person to sexual contact without such other person's consent;
- Such person engages in sexual contact with an animal or dead body;
- Such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session; or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor; or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception;
- Such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional;
- Such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor;
- Such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under 18 years of age;
- Such person subjects another person to sexual contact and (A) the actor is over 20 years of age or older and is in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and the other person's participation in a program or activity, and (B) is under 18 years of age; or
- Such person subjects another person to sexual contact who is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

# APPENDIX B: MANDATED REPORTING

## MANDATED REPORTER POLICY

Whether information emerges through a sexual misconduct report or through other means, students should be aware that School employees have obligations as mandated reporters. The *Faculty and Staff Handbook* describes these responsibilities as follows:

Connecticut law requires certain individuals, known as mandated reporters, to report suspicions of abuse or neglect to appropriate authorities. Mandated reporters include all members of the Choate faculty, School administration, employees, and any other person under contract with Choate who, in the performance of his or her duties, has regular contact with Choate students and who provides services to or on behalf of our students.

Any employee or other individual who has questions about whether he or she is a mandated reporter and/or about these reporting obligations should consult with the Head of Student and Academic Life, Dean of Students, Director of Human Resources, Director of Health and Wellness Services or Dean of Faculty. Beyond the legal obligations for mandated reporters, however, the School believes that it is important for all adults who are part of the Choate community to be vigilant regarding the safety and wellbeing of students. For this reason, it is the policy of the School that all adults who live on campus or who are part of the school community report concerns or suspicions of abuse, neglect, or assault involving any of our students to the Director of Health and Wellness Services or Dean of Students, regardless of whether such adult is considered a mandated reporter under the law.

## WHAT MUST BE REPORTED?

Mandated reporters are required to report, or cause a report to be made, to the Department of Children and Families (DCF) or to the police when, in the ordinary course of their employment or profession, they have reasonable cause to suspect or believe that a child under the age of 18 has been abused, neglected, or is placed in imminent risk of serious harm.

For purposes of this policy, "abused" means that a child: (a) has had physical injury inflicted upon him or her other than by accidental means; (b) has injuries at variance with history given of them; or (c) is in a condition resulting in maltreatment, such as, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment. "Neglected" means that a child: (a) has been abandoned; (b) is being denied proper care and attention physically, emotionally, or morally; or (c) is being permitted to live under conditions, circumstances, or associations injurious to his wellbeing.

The suspicion or belief of a mandated reporter may be based on factors including, but not limited to, observations, allegations, facts, or statements by the child or victim, or a third party. Such suspicion does not require certainty or probable cause.

In addition, if any mandated reporter or other adult member of our community has reasonable cause to suspect or believe that a School employee has sexually assaulted a student, regardless of the student's age, the employee or other individual should also report such suspicion to the Head of Student and Academic Life, Dean of Faculty, Director of Health and Wellness Services, Director of Human Resources or Dean of Students immediately, who will then in turn contact appropriate authorities and take other intermediate measures as needed to support the student.

*Note 8: School employees have obligations as mandated reporters in all Choate Summer Programs, both on and off campus.*

## REPORTING PROCEDURES FOR MANDATED REPORTERS

Once a mandated reporter has reasonable suspicion of abuse or neglect, they should notify the Director of Health and Wellness Services and ensure that an oral report is made as soon as practicable, but within 12 hours, to DCF and/or to a law enforcement agency. The oral report can be made by calling the DCF Hotline: 1-800-842-2288.

Not later than 48 hours after making the oral report, the mandated reporter (or other individual acting on behalf of the mandated reporter) is required to submit a written report to DCF (DCF-136 Form) with a copy to the Director of Health and Wellness Services or Dean of Students. The Director of Health and Wellness Services or Dean of Students will provide assistance and guidance to the mandated reporter with respect to the procedures for contacting DCF and submitting written reports and will coordinate any ensuing investigation with appropriate agencies.

If the allegation involves suspected abuse, neglect, or sexual assault of a student by a school employee, the Director of Health and Wellness Services or Dean of Students immediately notifies the student's parent(s) or guardian(s).

Choate will not discharge, or permit discrimination or retaliation against any employee who in good faith makes a report of abuse, neglect, or sexual assault under this policy or testifies in any proceeding involving abuse or neglect. The School also prohibits any employee from hindering or preventing any mandated reporter from making such report under this policy. Any violation of this should be reported to the Head of Student and Academic Life, Director of Health and Wellness Services, Dean of Students, Dean of Faculty, and/or the Director of Human Resources.

Providing appropriate support for all Choate students is of the utmost importance, and compliance with these laws and procedures is one important professional responsibility for all school employees.

For additional guidance on who must report, what must be reported, and how to report, please refer to:

<https://portal.ct.gov/DCF/1-DCF/Reporting-Child-Abuse-and-Neglect>

## **REPORTING SEXUAL ACTIVITY INVOLVING STUDENTS**

There may be times when sexual activity between or among students may also require a report to DCF. In making a decision about reporting, consideration should be given to the relative ages of the students, the nature of the activity, whether it was consensual, or whether there were any other factors that might indicate a student's inability to consent. Faculty, staff, and other adults in the School community are encouraged to immediately report any concerns about sexual activity between or among students, particularly if there is a significant age difference between the students, or if there is any question about whether the interaction was consensual. Reports should be directed to the Director of Health and Wellness Services or Dean of Students.

As general guidance, DCF advises that reports should be made if information suggests potentially abusive actions by peers or similar persons regardless of gender, such as when a student: (a) is under 13 years of age and is engaging in sexual intercourse, has a sexually transmitted disease, is pregnant, or is engaging in sexual activity that is developmentally inappropriate; (b) is being exploited because the relationship is non-consensual, hostile, or includes the use of force or threats; (c) has an emotional, psychological, or intellectual disability or is otherwise unable to consent or understand the consequences of consenting regardless of the student's age; or (d) is under the age of 16 and the partner is 21 years or older. Under Connecticut law, faculty, staff, and students should also be aware that sexual activity between students where the difference in age **is more than three years** (two years if either is under the age of 13) may also be considered a crime (i.e., statutory rape), regardless of whether the activity is consensual and regardless of whether it warrants a report to DCF.

## **APPENDIX C: VICTIM RESOURCES**

Students who experience sexual misconduct, whether occurring on or off campus, during the time when they are enrolled at Choate will be supported and assisted in obtaining medical treatment, counseling, and other resources to help them with the trauma they experienced.

### **ON CAMPUS RESOURCES**

Students can receive medical and counseling support by visiting the Pratt Health Center and working with members of Choate's Health Services team. Members of Choate's Spiritual Life team are also available to support students at any time. In addition, Choate Health Services has established relationships with local professionals with expertise working with victims of sexual misconduct; referrals to these off-campus professionals can be made by one of Choate's counselors, the nurse practitioner, or the medical director.

### **OFF-CAMPUS RESOURCES**

#### ***Connecticut Alliance to End Sexual Violence***

<https://endsexualviolencect.org>

Statewide 24-Hour Toll Free Hotline English 1-888-999-5545

Español 1-888-568-8332

96 Pitkin Street  
East Hartford, CT 06108  
Tel: 860-282-9881  
Fax: 860-291-9335  
Contact info for staff: <https://endsexualviolencect.org/teams/>

***Women & Families Center***

[www.womenfamilies.org/sexual-assault-crisis-services-sacs/](http://www.womenfamilies.org/sexual-assault-crisis-services-sacs/)  
Statewide 24-Hour Toll Free Hotline English 1-888-999-5545  
Español 1-888-568-8332  
Direct Hotline: 203-235-4444

*Meriden / Main Office:*

169 Colony Street  
Meriden, CT 06451  
Tel: 203-235-9297  
Fax: 203-237-7571

*Middletown Office:*

100 Riverview Center  
Suite 150  
Middletown, CT 06457  
Tel: 860-344-1474  
Fax: 860-346-5705

*New Haven Office:*

1440 Whalley Avenue  
New Haven, CT 06511  
Tel: 203-389-5010  
Fax: 203-389-5595

***Rape, Abuse, and Incest National Network***

[www.rainn.org](http://www.rainn.org)  
This website provides extensive resources and includes a 24/7 live chat option and a 24/7 help line, 800-656-4673