Sex Discrimination, Harassment, and Sexual Misconduct Policy and Grievance Procedures

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Introduction

Colby-Sawyer College does not tolerate sexual misconduct or sex discrimination. An act of sexual misconduct or sex discrimination represents a fundamental failure by a community member to recognize and respect the intrinsic worth and dignity of another. Acts of sexual misconduct or sex discrimination are harmful, in most cases are illegal, and will not be tolerated at Colby-Sawyer College. Such acts corrupt the integrity of the educational process, are contrary to the mission and values of the Colby-Sawyer College community, and are against college policy. All forms of prohibited conduct under this policy are regarded as serious college offenses, and violations will likely result in discipline, including but not limited to separation from the college. State and federal laws also address conduct that may meet the college's definitions of prohibited conduct, and criminal prosecution by state, local, and/or federal law enforcement agencies may take place independently of any disciplinary action instituted by the college.

As provided for in Title IX of the Higher Education Amendments of 1972, Colby-Sawyer College prohibits discrimination and discriminatory harassment in all its educational and employment programs and activities on the basis of any individual's sex, including admission and employment. Additionally, this policy complies with the regulations provided for in the Violence Against Women Reauthorization Act of 2013 ("VAWA"), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), and Title VII of the Civil Rights Act of 1964. This policy prohibits a broad continuum of behaviors, including those which may not be prohibited by law.

The college will respond to all allegations of Prohibited Conduct in a prompt, fair, and impartial manner. Retaliation against those who make a complaint or participate in a related grievance process is strictly prohibited.

There is a presumption that a respondent is not responsible for the alleged conduct. If upon conclusion of the grievance process, a student or employee is found responsible for violating college policy, the college will issue sanctions pursuant to established sanctioning standards.

Inquiries regarding the application of this policy and the respective grievance procedures used to resolve complaints may be referred to the recipient's Title IX coordinator, to the U.S. Department of Education's Office for Civil Rights, or both.

In order to address incidents of sexual misconduct that do not fall within the definition of Title IX Sexual Harassment, the college has two policies that address allegations of Colby-Sawyer College sexual misconduct policies; they are 1) Colby-Sawyer Institutionally Established Grievance Procedures for Allegations Against Students, and 2) Colby-Sawyer College Established Grievance Procedures for Allegations Against Employees located in the employee handbook(s) maintained through the college's Human Recourses Department. These policies are interrelated and must be read together. If the allegations forming the basis of a formal complaint (defined below), if substantiated, would constitute prohibited conduct under both policies, then the grievance process set forth in this policy and grievance procedure will be applied in the investigation and adjudication of all the allegations.

Colby-Sawyer College's established grievance procedures apply only to certain conduct, as defined under this policy. Specifically, they apply to forms of sexual misconduct that do not fall under the scope of the Title IX sexual harassment policy, including sexual exploitation, improper conduct related to sex, and the college's sexual harassment policy. The college's established grievance procedures also apply to certain contact that would otherwise be prohibited under the Title IX sexual harassment policy (e.g.,

sexual assault, domestic violence, dating violence, and stalking under the Title IX sexual harassment policy), but which must be dismissed under that policy because they do not meet the jurisdictional requirements (See Part IV: Prohibited Conduct).

The college will respond to reports or formal complaints (as defined in Part III.) of conduct prohibited under this policy with measures designed to stop the prohibited conduct, prevent its recurrence, and remediate any adverse effects of such conduct on campus or in college-related programs or activities. The college will not deprive an individual of rights guaranteed under federal and state law (or federal and state anti-discrimination provisions; or federal and state law prohibiting discrimination on the basis of sex) when responding to any claim of Title IX sexual harassment.

Notice of Non-Discrimination

Under institutional policy, as well as under state and federal law (including Title IX of the Education Amendments of 1972 and the Age Discrimination Act), Colby-Sawyer College does not discriminate in its hiring or employment practices or its admission practices on the basis of race or ethnicity; color; national origin; religion; age; mental or physical disability; parental, family or marital status; veteran status; or sex (including pregnancy or related conditions, sexual orientation, genetic information, gender identity, gender expression). Further, Colby-Sawyer College prohibits sex discrimination in any education program or activity that it operates.

The college recognizes that harassment related to an individual's sex, sexual orientation, gender identity, or gender expression can occur in conjunction with misconduct related to an individual's race, color, ethnicity, national origin, religion, age, or disability. Targeting individuals on the basis of these characteristics is also a violation of the college policy. Under these circumstances, the college will coordinate the investigation and resolution efforts outlined in these policies as well as the Code of Community Responsibility (for students) and Employee Handbook (for employees), to address harassment related to the targeted individual's sex, sexual orientation, gender identity, or gender expression together with the conduct related to the targeted individual's race, color, ethnicity, national origin, religion, age, or disability.

For the college's policies related to Sex Discrimination and Harassment see Part IV: Prohibited Conduct.

Applicability and Jurisdiction

This policy applies to all college students and employees, vendors, visitors, and volunteers. Third parties are both protected by and subject to this policy. A third-party (alumni, visitor, vendor) may make a report of a violation of this policy committed by a member of the college community. A third-party may also be permanently barred from the college or subject to other restrictions for failing to comply with this policy. This policy applies to conduct that occurs on college property (i.e., on campus) and in the local vicinity. This policy also applies to conduct that occurs off college property (i.e., off campus) when the conduct is associated with a college-sponsored program or activity, such as travel, research, clinical or internship programs or when such conduct may have a continuing adverse effect or could create a hostile environment on campus. Judgments about these matters will depend on facts of an individual case.

For a party to file a formal Title IX complaint, the reported conduct must meet the following requirements:

- occurs within the United States;
- occurs within the college's education program or activity, meaning a) locations, events, or

circumstances over which the college exercises substantial control over both the respondent and the context in which the Title IX sexual harassment occurs, and b) any building owned or controlled by a student organization that is officially recognized by the college; and
- at the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity at the college.

For a party to file a formal complaint under Colby-Sawyer College's institutionally established grievance procedures, the reported conduct must:
- occur within the college's education program or activity, meaning a) locations, events, or circumstances over which the college exercises substantial control over both the respondent and the context in which the conduct occurs, and b) any building owned or controlled by a student organization that is officially recognized by the college; or
- the behavior, though it may not have occurred on campus or within locations, events, or circumstances over which the college exercises substantial control, but the misconduct may have an adverse impact on the college community, its members and/or the pursuit of its objectives regardless of where the conduct occurred.

All actions by a member of the college community that involve the use of the college's computing and network resources from a remote location, including but not limited to accessing email accounts, will be deemed to have occurred on campus. On-line and/or social media conduct may violate this policy if it meets the definition of prohibited conduct. Online postings are in the public sphere and are not private. These postings may subject an individual to allegations of prohibited conduct or other misconduct. The college does not regularly search for this information, nor does it monitor any particular social media site, but it may take action if and when such information is brought to its attention. See the college's Acceptable Use Policy and Responsible Use of Computer and Networks Policy.

Individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the college's ability to respond promptly and effectively. Reports and complaints may be made at any time without regard to how much time has elapsed since the reported incident(s).

If the respondent is no longer a student or employee at the time of the report or complaint, the college may not be able to take disciplinary action against the respondent, but it will still seek to offer supportive measures for the complainant and take steps, if necessary and possible, to end the prohibited behavior, prevent and address its recurrence, and address its effects. For a party to file a formal Title IX complaint, the reported conduct must have occurred within the scope of the college's programs or activities as defined as locations, events, or circumstances over which Colby-Sawyer exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Application of Law and Policy to Allegations of Sex Discrimination and Sexual Misconduct

This policy governs the college's response to allegations of sex discrimination, harassment and sexual misconduct. This policy covers behaviors that fall both within and outside the jurisdiction required for response by Title IX.

Allegations of misconduct that, as reported, meet the Department of Education's definition of sex discrimination or sexual harassment and are reported to have occurred in a Colby-Sawyer College

program or activity shall proceed pursuant to the Title IX grievance procedures.

Allegations of sex discrimination or sexual misconduct that do not meet the Department of Education's definition of sexual harassment or are reported to have occurred outside the parameters of a Colby-Sawyer College program or activity shall proceed pursuant to the appropriate institutionally established grievance procedure. The Title IX coordinator is the college official designated to evaluate reports to determine which law(s) apply and which policies are implicated by the reported conduct, and which grievance process to utilize to resolve such reported behavior.

Part I: Title IX Coordinator and Deputy Coordinator

Robin Burroughs Davis, Vice President for Student Development and Dean of Students, serves as the Title IX coordinator. In her role as Title IX coordinator, she coordinates the college's compliance with Title IX and all college conduct policies related to sexual misconduct to provide a prompt, fair, and equitable resolution process and provide appropriate education and training.

The college's Title IX coordinator will be informed of all reports or formal complaints of violations of this policy, and oversees the college's centralized response to ensure compliance with Title IX and the 2013 Amendments to the Violence Against Women Act (VAWA).

The college's Title IX coordinator's responsibilities include (but are not limited to):

- communicating with all members of the college community regarding Title IX and VAWA, and providing information about how individuals may access their rights;
- reviewing applicable college's policies to ensure institutional compliance with Title IX and VAWA;
- monitoring the college's administration of its own applicable policies, including this policy and the college's Employee Handbook and Faculty Handbook, and all related record keeping, timeframes, and other procedural requirements;
- conducting training regarding Title IX, VAWA, and prohibited conduct defined in this policy and related policies; and
- responding to any report or formal complaint regarding conduct that violates this policy.

For any report of which the college has actual knowledge (and any formal complaint), the college Title IX coordinator shall oversee, coordinate, and implement any supportive measures. For any formal complaint, the college's Title IX coordinator oversees the investigation and resolution of such alleged misconduct, directs the provision of any additional supportive measures, and monitors the administration of any related appeal.

The college's Title IX coordinator's contact information is as follows:
Robin Burroughs Davis
Vice President for Student Development and Dean of Students
Room 105 Ware Student Center
541 Main Street
New London, NH 03257
Phone: (603) 526-3752
The Title IX coordinator may delegate certain responsibilities under this policy to designated administrators, who are appropriately trained.

The Title IX coordinator assisted by her designated Title IX deputy coordinators, ensures consistent application of the policy to all individuals and allows the college to respond promptly and equitably to eliminate the misconduct, prevent its recurrence and address its effects. Each is knowledgeable and trained in state and federal laws that apply to matters of sexual misconduct as well as college policy and procedure. The Title IX coordinator and deputy Title IX coordinators can be contacted by telephone, email, or in person during regular office hours.

Title IX deputy coordinators

- Amanda Moak (students)
  Ware Student Center, Room 125
  541 Main Street
  New London, NH 03257
  Phone: (603) 526-3741

- Hilary Williams (faculty)
  Colgate Hall, Room 131
  541 Main Street
  New London, NH 03257
  Phone: (603) 526-3669

- Heather Zahn (staff, administration and visitors)
  Colgate Hall, Room 230A
  541 Main Street
  New London, NH 03257
  Phone: (603) 526-3584

*For the purpose of this document the titles Title IX coordinator and Title IX deputy coordinators will be used interchangeably.

The college provides the contact information of the college Title IX coordinator to students, faculty, staff, applicants for admission, applicants for employment, and/or agreements with the college.

Part II: Employee Responsibilities

1. Responsible Employees - Employees' Responsibility to Report

In emergency situations, if there is a suspected crime in progress or imminent or serious threats to the safety of anyone, employees must immediately contact local law enforcement (see Appendix A) and then the Department of Campus Safety by dialing (603)526-3300.

Responsible Employees (which are all employees other than those formally designated as Confidential Resources under this policy (see Part VII.1) must promptly report suspected violations of this policy to the college's Title IX coordinator. Some students with special responsibilities, including Residential Education staff (e.g. RA's) must promptly report alleged violations of this policy to college's Title IX coordinator.

Students are encouraged to report any suspected violation of this policy (after consulting a Confidential Resource as appropriate).

2. Campus Security Authorities (CSA)

Campus Security Authorities (CSAs) are individuals who by virtue of their college responsibilities and under the Clery Act, are designated to receive and report criminal incidents to the Colby-Sawyer College Department of Campus Safety, so that they may be included and published in the College's Annual Security and Fire Safety Report. All Employees who are designated as Campus Security Authorities for the purposes of the Clery Act must immediately provide the Colby-Sawyer College Department of Campus Safety with non-identifying statistical information regarding all reported incidents of sexual assault, dating violence, domestic violence, and stalking.

Part III: Terms

- **Advisor** refers to the Title IX requirement that allows parties to select an advisor of their choosing to accompany the party for any portion of the grievance process (including all meetings and investigations associated with the Title IX process. Title IX also requires an advisor to attend the "live hearing" portion of the grievance process. In instances where either party does not select an advisor of their choosing, the college is required to provide one. There is no equity requirement the college must meet in the college's selection of an advisor on behalf of a party. For non-Title IX cases, the advisor serves as a support person who is chosen by the student to accompany the student complainant or student respondent but who has no formal or active role in the hearing process. See Appendix C for more information on Advisors.
- **Complainant** refers to the individual(s) who submits an allegation that a person(s) violated the college's Sex Discrimination, Harassment, and Sexual Misconduct Policies and Grievance Procedures or a person other than a student or employee who is alleged to have been subjected to conduct that would constitute sex discrimination under Title IX or Colby-Sawyer College policies and who was participating or attempting to participate in Colby-Sawyer's education program or activity at the time of the alleged sex discrimination, sexual harassment, or sexual misconduct.
- **Confidential Employee** refers to a Colby-Sawyer College employee whose communications are privileged or confidential under federal or state law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties wot which privilege or confidentiality apply. Colby-Sawyer College has designated the nurses and mental health counselors at Baird Health and Counseling as its only confidential employees.
- **Confidential Resource Advisor** refers to the New Hampshire RSA 188-H requirement that each institution of higher education designate at least one confidential resource advisor whose role is to inform the student or employee or provide resources about reporting options and supportive services and resources on and off campus, and the investigative and disciplinary processes of the institution. Click here for full information about the requirement.
- **Exculpatory information/evidence** refers to information/evidence that shows, or tends to show a person's lack of involvement in an act, or information/evidence that can establish the respondent is not responsible.
- **Formal complaint** refers to a document filed by a complainant (meaning a document or electronic submission, such as by electronic mail, that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the individual filing the formal complaint) alleging Title IX sex-discrimination or sexual harassment, or a violation of Colby-Sawyer College's institutional sexual misconduct policies against a respondent and

requesting that the college investigate the allegation. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the college. A formal complaint may be filed with the college Title IX coordinator or deputy coordinators in person, by mail, or by electronic mail, by using the contact information provided in this policy, and by any additional method identified in this policy.

- **Formal complaint** may also refer to a document signed by the college Title IX coordinator alleging Title IX sexual harassment against a respondent. Where the college's Title IX coordinator signs a formal complaint, the college's Title IX Coordinator is not a complainant or otherwise a party.
- **Grievance process** refers to the process that is initiated by a formal complaint, either by an individual or in some cases the Title IX coordinator.
- **Inculpatory information/evidence** refers to information/evidence that shows, or tends to show, a person's involvement in an act, or information/evidence that can establish responsibility.
- **Institutionally established grievance procedures:** Colby-Sawyer College established grievance procedures for allegations against employees refers to the procedures for resolving matters involving employee respondents which do not meet the threshold or definition of Title IX. Such non-Title IX behavior will be resolved using the procedures outlined in the Corrective Action Procedure section of the Employee Handbook. Colby-Sawyer College established grievance procedures for allegations against students refers to the procedures for resolving matters involving student respondents which do not meet Title IX definitions or parameters as outlined in this document. Such matters will be resolved using the procedures outlined throughout this document.
- **Party or parties** refer to the complainant(s) and the respondent(s).
- **Preponderance of the evidence** refers to a standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence which is offered in opposition to it; given the totality of information the version of events is more likely than not to have occurred. Preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for a policy violation.
- **Relevant** refers to information or matters related to the allegation of discrimination or harassment. Questions are relevant when they seek evidence that may aid in showing whether an alleged sex-discrimination or sexual harassment occurred, and evidence is relevant when it may aid a decision maker in determining whether an alleged sex-discrimination/harassment occurred.
- **Report** refers to information brought to the attention of an official with authority alleging conduct prohibited under this policy; a report is not considered to be a formal complaint. A party may bring a report and then subsequently file a formal complaint.
- **Respondent** refers to the individual(s) who has been alleged to be the perpetrator of conduct that could constitute Title IX sex-discrimination or sexual harassment or other prohibited conduct.
- **Third party complainant** refers to any individual who is not a college student, a faculty member, or a staff member (e.g., vendors, alumni/ae, or local residents) who files a complaint against a student or employee.
- **Title IX grievance procedures for students, faculty, and staff** refers to the grievance process used for allegations that meet the Title IX definition of sex-discrimination or sexual harassment and are alleged to have occurred in a college program or activity, as defined under Title IX.

- **Witness** refers to any individual who has relevant knowledge of an incident. Character witnesses are not allowed as part of this policy.

Part IV: Prohibited Conduct

In determining whether alleged conduct violates this policy, the college will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

The prohibited behaviors listed below are serious offenses and will result in college discipline. Prohibited conduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another individual's state of incapacitation, will be deemed especially egregious and may result in disciplinary action up to immediate dismissal from the college or termination of employment. The respondent's consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation under this policy.

Prohibited behaviors are:

1. Title IX Sexual Harassment

Conduct on the basis of sex that:

- occurs within the United States;
- occurs within the college's education program or activity, meaning a) locations, events, or circumstances over which the college exercises substantial control over both the respondent and the context in which the Title IX Sexual Harassment occurs, and b) any building owned or controlled by a student organization that is officially recognized by the college; and at the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity at the college.

The conduct in question must satisfy one or more of the following:

i. an employee, agent, or other person authorized by Colby-Sawyer College to provide an aid, benefit, or service under Colby-Sawyer's education program or activity explicitly or impliedly conditioning the provision of an aid, benefit, or service on the individual's participation in unwelcome conduct (also known quid pro quo harassment);
ii. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to their education (also known as hostile environment); or
iii. sexual assault, dating violence, domestic violence, or stalking, as defined by this policy.

A single instance of abuse of authority may constitute quid pro quo harassment. If a complainant acquiesces to unwelcome conduct to avoid potential negative consequences, consent does not necessarily mean that the conduct was "welcomed" or that the harassment did not occur.

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

i. the degree to which the conduct affected the complainant's ability to access Colby-Sawyer's education program or activity;

ii. the type, frequency, and duration of the conduct;
iii. the parties' ages, roles within Colby-Sawyer's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating effects of the conduct;
iv. the location of the conduct and the context in which the conduct occurred; and
v. other sexual harassment in Colby-Sawyer's education program or activity.

A. Sexual Harassment

Any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal, electronic, or physical conduct of a sexual nature when such conduct that is sufficiently serious, pervasive and persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment such that the behavior effectively denies a person equal access to their education under an objective standard.

Sexual harassment may include unwanted sexual behaviors such as pressuring a person for dates or unwanted touching including hugging and kissing.

Sexual harassment includes verbal, written, or physical behavior, directed at someone, or against a particular group, because of that person's or group's sex, gender identity, actual or perceived sexual orientation, or based on gender stereotypes. Such conduct does not need to be directed at or to a specific individual in order to constitute discriminatory harassment, but may consist of generalized unwelcome and inappropriate behaviors or communications based on sex, gender identity, actual or perceived sexual orientation, or gender stereotypes.

B. Sexual Assault:

Any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. This includes the following:

i. Rape

The carnal knowledge of a person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

ii. Sexual Assault with an Object

To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

iii. Fondling

The touching of the private body parts of another person (buttocks, groin – vagina or penis, breasts) for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

iv. Incest

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or

v. Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent (NH under the age of 16).

C. Sexual Exploitation

An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of one's own or another's sexual gratification, financial gain, personal benefit, or advantage or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses. Sexual exploitation may involve individuals who are known to one another, have an intimate or sexual relationship, and/or may involve individuals not known to one another. Examples include, but are not limited to:

a. Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved, or disrobing of another without permission;
b. Non-consensual streaming of images, photography, video or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved (including manipulated or AI generated images of an individual);
c. Prostituting another individual or aiding in or facilitating the sexual assault of another;
d. Knowingly exposing another individual to a sexually transmitted disease or virus without their knowledge; and
e. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity

D. *Dating Violence

Violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the reporting individual's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the individuals involved in the relationship. This includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

*For purposes of this policy, an intimate partner is defined as an individual with whom one has or had a short- or long-term relationship that provides romantic and/or physical intimacy or emotional dependence. Intimate relationships can occur between individuals of the same gender or different genders and may include (but are not limited to) marriages, civil unions, dating relationships, "hook-up" relationships, relationships in which partners are characterized as "girlfriends" or "boyfriends," and relationships between individuals with a child in common.

E. *Domestic Violence

A felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the complainant; (b) by an individual with whom the complainant shares a child in common; (c) by an individual who is cohabitating with, or has cohabitated with, the as a complainant spouse or intimate partner; (d) by an individual similarly situated to a spouse of the

complainant under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred; (e) by any other individual against an adult or youth complainant who is protected from that individual's acts under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred.

It may include, but is not limited to:

- Physical violence
- Verbal, emotional, mental/psychological, and/or economic abuse
- Threats, pushing, punching, slapping, strangulation, shouting and/or name-calling
- Harming or threatening to harm children or pets, and other violent or intimidating behaviors

F. Stalking

Engaging in a course of conduct directed at a specific individual that would cause a reasonable person to: (a) fear for the individual's safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of the Stalking definition: *Course of conduct* means two or more acts, including acts in which the stalker directly, indirectly, or through third parties, by any action, method observes, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the complainant. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

G. Retaliation

No individual may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or because an individual has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. The college retains the right to charge an individual for making a materially false statement in bad faith during an investigation, proceeding, or hearing under this policy, but will not conclude that any individual has made a materially false statement in bad faith solely based on the determination regarding responsibility.

Depending on the circumstances referenced above, retaliatory acts may include (but are not limited to):

- adverse employment action;
- adverse action relating to participation in an educational or working program;
- unreasonably interfering with the academic or professional career of another individual;
- engaging in conduct which constitutes stalking, harassment, or assault; or
- engaging in efforts to have others engage in retaliatory behavior on one's behalf.

Complaints alleging retaliation under this policy, including for the exercise of rights under this policy, must be filed in accordance with this policy and will be addressed promptly and equitably. Where the individual allegedly retaliating is not affiliated with the college and not otherwise subject to its policies, the college will process the complaint and take appropriate measures.

Notwithstanding the above, an individual accountable for making a materially false statement in bad faith during a grievance proceeding under this policy does not in and of itself constitute retaliation. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

H. Discrimination Based on Sex

An intentional or unintentional act that adversely affects employment and/or educational opportunities and is related to: current, potential, or past pregnancy or related conditions; parental, family, or marital status; sex; sex stereotypes; sexual orientation; gender identity; or gender expression.

Discrimination may be classified as either disparate impact (facially neutral practices that fall more harshly on one group than another and cannot be justified by business necessity) or disparate treatment (treatment of an individual that is less favorable than treatment of others based on discriminatory reasons). A single act of discrimination may be based on more than one protected class status.

Part V: Statement on Consent

The college considers consent as a voluntary, informed, un-coerced agreement through words or actions freely given, which could be reasonably interpreted as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.

Indications that consent is not present include: when physical force is used or there is a reasonable belief of the threat of physical force; when duress is present; when one individual overcomes the physical limitations of another individual; and when an individual is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the individual is in a state of incapacitation.

Important points regarding consent include:

a. Consent to one act does not constitute consent to another act.
b. Consent on a prior occasion does not constitute consent on a subsequent occasion.
c. The existence of a prior or current relationship does not in itself constitute consent.
d. Consent can be withdrawn or modified at any time.
e. Consent is not implicit in an individual's manner of dress.
f. Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
g. Silence, passivity, or lack of resistance does not necessarily constitute consent.
h. Initiation by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent.

Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm, intimidation, which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity.

For purposes of this policy, **incapacitation** (or incapacity) is the state in which an individual's perception or judgment is so impaired that the individual lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where an individual knows or ought reasonably to have understood that the individual is incapacitated, is prohibited by this policy.

Part VI: Confidentiality, Privacy, and Related Responsibilities

Issues of privacy and confidentiality play important roles in this policy and may affect individuals differently. Privacy and confidentiality are related but distinct terms that are defined below.
In some circumstances, the reporting responsibilities of college employees, or the college's responsibility to investigate, may conflict with the preferences of the complainant and/or respondent regarding privacy and confidentiality.

Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities, and make use of Confidential Resources, if applicable, in determining their preferred course of action.

Requests for confidentiality or use of anonymous reporting may limit the college's ability to conduct an investigation.

1. Confidentiality and Confidential Resources

The term "confidentiality" refers to the circumstances under which information will or will not be disclosed to others.

Several campus professionals are designated confidential resources or confidential resource advisors (CRAs), to whom confidentiality attaches. Confidential resources or CRAs are not obligated to report information that is provided to them. This allows individuals to explore their options in a non-pressured environment while they make informed decisions. There may be exceptions in cases involving child abuse, imminent risk of serious harm, emergent hospitalization, or a court order. In addition, non-identifying information about violations of the college's Title IX Sex Discrimination, Harassment and Sexual Misconduct Policy and Grievance Procedures may be submitted to the Department of Campus Safety for purposes of the anonymous statistical reporting under the Clery Act.

An individual who is not prepared to make a report or formal complaint, or who may be unsure how to label what happened, but still seeks information and support, is strongly encouraged to contact a confidential resource advisor (CRA). See Appendix A for a complete list of confidential resources on or off campus.

In particular, any student who may have been subjected to a violation of this policy, or who is considering making a report or formal complaint under this policy, is encouraged to contact the Baird Health and Counseling Center (BHCC) at (603) 526-3621. For employees, contact the Employee Assistance Plan at (855)775-3457 OR the Thrive Survivor Support Center (formerly Crisis Center of Central New Hampshire) at (866)841-6229.

In light of the college's obligation to respond promptly and effectively to individuals alleged to be victimized by Title IX sex-discrimination or sexual harassment, college employees who are not designated confidential resources are required to notify the college Title IX coordinator of

suspected violations of this policy, and cannot guarantee the confidentiality of a report under this policy. See Part II.1.

2. Confidentiality Rights of Complainants and Respondents

While complainants, respondents, and witnesses involved in the grievance process under this policy are strongly encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation, complainants and respondents are not restricted from discussing the allegations under investigation.

Medical, psychological, and similar treatment records are privileged and confidential documents that cannot be accessed or used for a grievance process under this policy without the relevant party's voluntary, written consent.

3. Privacy

The term "privacy" refers to the discretion that will be exercised by the college in the course of any investigation or grievance processes under this policy.

In all proceedings under this policy, the college will take into consideration the privacy of the parties to the extent possible.

In cases involving students, the college Title IX coordinator may notify specific Residential Education staff, and/or other college employees of the existence of the report and/or formal complaint for the purpose of overseeing compliance with this policy and addressing any concerns. While not bound by confidentiality, these individuals will be discreet and will respect the privacy of those involved in the process.

In accordance with federal regulations, the college will keep confidential the identity of any individual who has made a report or formal complaint under this policy, including any complainant, any individual who has been reported to be the perpetrator, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of conducting any investigation or hearing under this policy.

Any additional disclosure by the college of information related to the report or formal complaint may be made if consistent with FERPA or the Title IX requirements.

4. Release of Information and Timely Warnings

If the college becomes aware of a serious and continuing threat to the campus community, the college may issue a timely warning in accordance with federal regulation to protect the health or safety of the community. The Department of Campus Safety may also publish a reported incident in the daily crime log or annual security report. In addition, the college may also share non-identifying information, including data about outcomes and sanctions, in aggregate form. The college will not disclose the name or other personally identifiable information of the complainant unless it has received the express consent of the complainant or unless the release of such information is consistent with legal requirements or mandated by law.

Part VII: Options for Complainants and Respondents

A complainant, respondent, or witness has many options, including counseling and support services. Information regarding contact information for local law enforcement as well as contact information for confidential resources and CRAs that are available to provide support to parties and witnesses are described in further detail in Appendix A.

After consulting a Confidential Resource as appropriate, a complainant may:

i. Request supportive measures from the college Title IX coordinator (see Part VII);
ii. File a formal complaint with the college Title IX coordinator, thereby invoking the college's internal grievance process (see Part IX);
iii. Contact the Department of Campus Safety for assistance in filing a criminal complaint and preserving physical evidence (see Appendix A); and/or
iv. Contact local law enforcement to file a criminal complaint (see Appendix A). At the complainant's request, the college will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue a criminal process.

An individual may pursue some or all of these steps at the same time. When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened. Before or during this decision-making process, complainants and other reporting individuals are encouraged to consult a confidential resource (see Appendix A).

1. Anonymous Reporting

If a reporting individual makes an anonymous report, the college's Title IX coordinator will consider how to proceed, taking into account the individual's articulated concerns; the best interests of the college community; fair treatment of all individuals involved; and the college's obligations under Title IX.

A complainant cannot file a formal complaint anonymously.

Any individual may make an anonymous report concerning a violation of this policy through the college's Sexual Misconduct Report Form. Anonymous reports may be made by downloading the form, printing it out and completing and returning it to the Director of Campus Safety. Completing a Sexual Misconduct Report Form report can be made without disclosing the reporting individual's own name, identifying the respondent, or requesting any action. However, if the reporter provides limited information, the college may be limited in its ability to take action. Completing a Sexual Misconduct Report Form is not a confidential resource and making a report to a sexual misconduct report form may result in a college review or investigation. Anonymous reporting does not satisfy employees' reporting obligations as in Part II.1.

2. Timeliness of Report

Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the college's ability to respond promptly and effectively. Reports and formal complaints may be made at any time without regard to how much time has elapsed since the incident(s) in question. If the respondent is no longer a student or employee at the time of the report or formal complaint, the college may not be in a position to gather evidence sufficient to reach a determination as to the formal complaint and/or the college may not be able to take disciplinary action against the respondent. However, the college will still seek to provide

support for the complainant and seek to take steps to end the prohibited behavior, prevent its recurrence, and address its effects.

3. Amnesty

In order to encourage reports of conduct that is prohibited under this policy, the college may offer leniency with respect to other violations which may come to light as a result of such reports, depending on the circumstances involved.

Part VIII: Supportive Measures for Complainants and Respondents

Upon receipt of a report or complaint of a violation of this policy, the college, through the college Title IX coordinator and/or designee, will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The college will also consider supportive measures, as appropriate and reasonably available, for the respondent.

These supportive measures are designed to restore or preserve equal access to the college's educational and working programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties and the broader college community, provide support during the grievance procedures, or deter sex discrimination, sexual harassment or sexual misconduct. While a supportive measure may impose some restrictions on a party, it will not unreasonably burden them. The college may provide supportive measures to the complainant or respondent, as appropriate, as reasonably available, and will do so without fee or charge, regardless of whether the complainant seeks formal disciplinary action. Once supportive measures are approved, the parties or affected individuals will be notified in writing of the supportive measures. The college will maintain any supportive measures provided to the complainant or respondent as confidential to the extent possible.

Supportive measures may include:

- counseling;
- extensions of deadlines or other course-related adjustments;
- modifications of work or class schedules;
- campus escort services;
- mutual restrictions on contact between the parties (interim non-contact orders);
- changes in work or housing locations;
- voluntary leaves of absence;
- increased security and monitoring of certain areas of the campus; and/or
- any other measure that can be used to achieve the goals of this policy.

Requests for supportive measures may be made by or on behalf of the complainant or respondent to any college official, including the college Title IX coordinator. The college Title IX coordinator is responsible for ensuring the implementation of supportive measures and coordinating the college's response with the appropriate offices on campus.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by a supportive measure. The college will take immediate action to enforce a previously implemented measure and disciplinary sanctions can be imposed for failing to abide by a college-imposed measure.

The complainant or respondent may request a review of the Title IX coordinator's decision regarding supportive measures and may request, from an impartial deputy Title IX coordinator, modification or reversal of the Title IX coordinator's decision to provide, deny, modify, or terminate supportive measures applicable to them.

Part IX: Interim Action

1. Emergency Removal

In connection with this policy, whether or not a grievance process is underway, the college may summarily remove an individual from an education program or activity on an emergency basis, after undertaking an individualized safety and risk analysis, and upon the determination that the individual poses an immediate threat to the physical health or safety of any student or other individual (including themselves, the respondent, the complainant, or any other individual). In these situations, the college will provide the individual with notice and an opportunity to challenge the decision immediately following the removal.

An Individual who has been removed and who wishes to challenge an emergency removal must submit a written appeal of such decision within five business days. Grounds for appeal include the following:

- procedural irregularity that affected the outcome;
- new evidence that was not readily available when the decision regarding an emergency removal was made that could affect the outcome; and
- a college official involved in the decision-making process regarding the emergency removal had a general or specific conflict of interest or bias that impacted the decision to issue an emergency removal.

A Title IX coordinator or deputy coordinator, who was not the original decision-maker, will provide a decision to the respondent within five (5) business days of receiving the appeal. If the appeal is denied, the emergency removal may remain in effect through the conclusion of the grievance process, including the appeal process.

2. Administrative Leave

If it deems it appropriate to do so, the college may place an employee respondent, including student employees, on administrative leave prior to or during the pendency of a college grievance process set forth in this policy. Typically, those placed on administrative leave will continue to receive pay and benefits. Additionally, administrative leave is not indefinite and the employee respondent will be provided updates regarding their status.

Part X: Grievance Procedures for Students, Faculty, and Staff Sex Discrimination, Harassment, and Sexual Misconduct Complaints, In General

The college is committed to providing a prompt and impartial investigation and adjudication of all formal complaints alleging violations of this policy. During the grievance process, both parties (complainant and respondent) have equal rights to participate.

1. Conflict of Interest

Conflict of interest refers to persons who will be prohibited from serving as a hearing officer or board member if a reasonable person could conclude that the person's involvement would likely constitute a conflict of interest by compromising any portion of the investigatory process, review

and/or any decision process that could affect the outcome of the matter. Some examples that would create a conflict of interest are, but are not limited too; (1) they have personal knowledge about the facts that are going to be considered as evidence throughout any portion of the process; (2) they have served as an advisor to the reporting third party, the complainant, and/or the respondent in connection with the alleged policy violation; (3) they or a member of their immediate family has an interest (financial or otherwise) in the outcome of the case in question; and/or (4) an objective and reasonable person would question their impartiality or bias.

A party who has concerns that one or more of the individuals performing one of the aforementioned roles has conflicting interest or is biased must report those concerns to the college's Title IX coordinator (or a deputy Title IX coordinator if the party has concerns about the Title IX coordinator) within **48 hours** of being notified of their identities and include a brief explanation of the basis for the conflict or bias concern. The college Title IX coordinator will assess the allegations of conflict or bias to determine whether or not the identified individual(s) can fulfill their duties in an impartial way. In the event the Title IX coordinator makes such determination, the person in question will be replaced with another person to carry out the function(s). The Title IX coordinator decision will be final. The college reserves the right to select an impartial investigator, reviewer, or decision maker from outside the college in the event no-one from within the institution is comfortable or able to serve in such role.

2. Responsibility to Review Reports and Formal Complaints

In order to protect the safety of the campus community, the college's Title IX coordinator may review reports of violations of this policy even absent the filing of a formal complaint, or under certain circumstances even if a formal complaint has been withdrawn. The Title IX coordinator may need to themselves file a formal complaint and proceed with an investigation even if a complainant specifically requests that the matter not be pursued. In such a circumstance, the Title IX coordinator will take into account the complainant's articulated concerns, the best interests of the college community, fair treatment of all individuals involved, and the college's obligations under Title IX.

This policy differs from New Hampshire criminal law. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

3. Presumption of Good Faith Reporting

The college presumes that reports of prohibited conduct are made in good faith. A finding that the alleged behavior does not constitute a violation of this policy or that there is insufficient evidence to establish that the alleged conduct occurred as reported does not mean that the report was made in bad faith.

4. Presumption of Non-Responsibility

The respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the grievance process.

5. Honesty and Cooperation during Grievance Process

The college expects all members of the college community to be honest and cooperative in their

official dealings with the college under this policy. In this regard, individuals are expected to acknowledge requests from college officials for information in a timely fashion and to make themselves available for meetings with college officials or any officials acting on behalf of the college; any student or member of the faculty or staff who fails to do so may be subject to discipline. However, parties and witnesses may choose not to attend the hearing or may choose not to participate in cross examination at the hearing (see Part XI.6.c.ii)

Should a respondent who has been notified of an investigation decline to participate, the investigation may proceed, a hearing may be held, a finding may be reached, and a sanction may be imposed based on the information available. Similarly, complainants cannot be compelled to participate in an investigation, including when a formal complaint is filed by the Title IX coordinator. The college will not, however, draw any inference about the determination of responsibility based on a party or witness absence from this process.

6. Prior Sexual Behavior

The complainant's predisposition or prior sexual behavior are not relevant and will not be used during the grievance process, unless offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

7. Investigation of Allegations of Violations of Other College Policies

When an initial assessment or investigation under this policy identifies additional related possible violations of college policies (including for students the Code of Community Responsibility and for employee's the Employee Handbook) by the same party(ies) that would normally be handled by another office, the college Title IX coordinator, may direct investigators under this policy to investigate such other possible violations at the same time that they investigate the allegations covered by this policy. Under such circumstances, the parties will be provided with written notice containing the following information: (a) the alleged prohibited conduct, and (b) the policy(ies) under which alleged prohibited conduct falls.

8. Procedures Where One Party Is a Member of the College Community and the Other Party is a Non-Member of the College Community

When a third party, (i.e., a non-member of our college community, which could include, for example, alumni) is a complainant under this policy, the college will use disciplinary procedures that are generally consistent with the disciplinary procedures described in this policy, appropriately modified based on the particular circumstances of the case and taking into account privacy requirements and the like. In no case will a member of our community (i.e., current student, faculty member, or staff member) be afforded lesser rights or lesser opportunities to participate in the disciplinary proceeding than the non-member of the college\community.

Part XI: Grievance Procedures for Sex Discrimination, Harassment, and Sexual Misconduct Complaints, Steps

1. Filing of a Formal Complaint

To initiate the formal resolution process, a complainant must file a formal complaint. A formal complaint means a written statement filed by a complainant or signed by the Title IX coordinator

alleging prohibited conduct against a respondent and requesting resolution of the alleged behavior. The complaint should contain sufficient information to permit the respondent to understand the charges being brought and to be able to adequately respond. In cases involving a third party reporter submitting a report, the third party should also provide sufficient information that will identify the complainant. A formal complaint may be completed by the complainant in person or submitted by email, mail or by phone to the Title IX coordinator.

If the complainant does not wish to proceed with a formal complaint, the college will respect the complainant's autonomy and wishes to the extent possible. The complainant will be able to access supportive measures. In limited circumstances, the Title IX Coordinator may sign a formal complaint and move forward with a formal grievance process. These cases include, but are not limited to, the following:

- actual knowledge of a pattern of alleged prohibited conduct by a respondent in a position of authority;
- the Title IX coordinator receives multiple reports of prohibited conduct and sex-discrimination against the same respondent;
- a pattern of alleged conduct and the involvement of violence, weapons, and similar factors in the complainant's allegations;
- the seriousness of the alleged harassment; and
- the age of the student who was allegedly harassed.

In cases in which the Title IX coordinator signs a formal complaint, the Title IX coordinator will not serve as a party within the grievance process. Additionally, the complainant cannot be required to participate in the grievance procedure and does not need to appear at a live hearing or submit cross-examination.

2. Notification and Rights and Options

If a formal complaint is not filed, the complainant will be provided an explanation of their rights and options which includes the following:

- the importance of obtaining and preserving forensic and other evidence;
- the right to report or not report the alleged incident to the college, law enforcement or both, including information about the complainant's right to privacy and which reporting methods are confidential;
- the right to request and receive assistance from campus authorities in notifying law enforcement;
- the right to request and receive assistance in obtaining and enforcing a campus-issued order of protection or no contact order.
- the right to speak to and receive assistance from on and off campus confidential resources and other organizations that provide support and services to complainants
- the right to assistance from the college in accessing and navigating campus and local health and mental health services, counseling, and advocacy services.
- the right to supportive measures with or without the filing of a formal complaint and that the college will consider the complainant's wishes with respect to available supportive measures including without limitation changes to academic, living, dining, working, and transportation situations;
- the right to request a formal process if cause is found to proceed under this policy and a summary of the appropriate complaint resolution procedures;
- contact information for all of the people and organizations listed herein; and

- the right to request an end to the process except as set forth in this policy.

If a formal complaint is filed, the parties will receive written notice from the Title IX coordinator of the allegations of prohibited conduct, including sufficient details known at the time with sufficient time to prepare before any initial meeting or interview.

Additionally, the complainant and respondent will be provided an explanation of their rights and options which includes the following:

- the right for complainants and respondents to be treated equitably by the college which includes providing remedies to a complainant where a determination of responsibility for prohibited conduct has been made against the respondent, and by following a grievance process that complies with this policy;
- the right to a fair, impartial, proceeding that begins promptly and is completed within reasonably prompt timeframes;
- the right to a resolution process that is consistent with the college's policies, transparent to the complainant and respondent, and in which the burden of proof and of gathering evidence rests with the college and not the parties;
- the right to an advisor of the party's choosing during the grievance process (if a party does not have an advisor present at a Title IX related hearing, the college will provide without fee or charge, an advisor of the college's choice);
- for non-Title IX cases, the parties will have a right to an advisor who serves as a support person (a member of the college community who is chosen by the complainant or respondent) who may accompany the complainant or respondent to support the student during the hearing process, as described in Appendix C ;
- the right to reasonable accommodations during any hearing, such as not being in the same room as the other party;
- the right to an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations will not be based on a person's status as a complainant, respondent, or witness;
- the right to a determination regarding responsibility made at the conclusion of the resolution process and that the college makes no prior presumption of responsibility regarding the respondent prior to a finding; and
- the right not to be retaliated against for filing a complaint and/or for participating in a formal resolution process

3. Assessment and Dismissal of Formal Complaints

Upon receipt of a formal complaint, the college's Title IX coordinator will respond to any immediate health or safety concerns raised. The Title IX coordinator will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute prohibited conduct under this policy. The college will seek to complete this initial assessment within ten (10) business days of receipt of the formal complaint.

Following the initial assessment, the college Title IX coordinator may take any of the following actions:

- If the allegations forming the basis of the formal complaint would, if substantiated, constitute prohibited conduct as defined in this policy, the college's Title IX coordinator shall implement appropriate supportive measures. In addition, the college's Title IX coordinator shall initiate an investigation of the allegations under this policy in a formal complaint, as described in Part

XI.6.

- If the allegations forming the basis of the formal complaint would not, if substantiated, constitute prohibited conduct as defined in this policy, the college's Title IX coordinator shall dismiss the formal complaint from the sex discrimination, harassment and sexual misconduct grievance process (and either party may appeal this dismissal, as discussed below).

In addition, at any time prior to the hearing, the college may dismiss a formal complaint if:

- the complainant notifies the Title IX coordinator in writing that the complainant wishes to withdraw the formal complaint or any allegations therein;
- the respondent is no longer enrolled, participating in the college's education program or activity, or employed by the college;
- specific circumstances prevent the college from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein, such as the college is unable to identify the respondent after taking reasonable steps to do so; or
- after the investigation and based on all evidence collected, the allegations forming the basis of the formal complaint would not, if substantiated constitute prohibited conduct as defined in this policy.

Upon dismissal, the college shall promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties via electronic format. Both parties will have equal right to appeal the dismissal through the appeal process described in Part XII.

The determination regarding dismissal becomes final either on the date that the parties are provided with the written determination of the result of an appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. Once final, a complainant cannot file a formal complaint under this policy concerning the same alleged conduct.

Despite a dismissal of complaint, the Title IX coordinator will offer supportive measures to the complainant and respondent as appropriate. The Title IX coordinator will take other appropriate prompt and effective steps to ensure that sex discrimination, harassment, or sexual misconduct does not continue or recur.

4. Consolidation

The college Title IX coordinator has the discretion to consolidate multiple formal complaints as to allegations of sex discrimination, harassment, or sexual misconduct or against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sex discrimination, harassment or sexual misconduct arise out of the same facts or circumstances.

5. Notice of Allegations

Notice of Investigation

Following the receipt and review of the formal complaint by the college's Title IX coordinator, and it being determined that the matter properly falls under this Title IX Sex Discrimination, Harassment and Sexual Misconduct policy, the parties will be informed in writing of the initiation of the investigation. The written information shall include:

- the identities of the parties, if known;

- a concise summary of the alleged conduct at issue (including when and where it occurred, if known);
- notice of the allegations potentially constituting Title IX sex discrimination, harassment, or sexual misconduct;
- a statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process;
- a statement informing the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney;
- a statement informing the parties that they may request to inspect and review evidence;
- a statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of college policy; and
- information regarding the applicable grievance procedures.

If, during the investigation, additional information is disclosed that may also constitute prohibited conduct under this policy, the respondent and complainant will be informed in writing that such additional information will be included in the grievance process.

6. Investigation and Formal Resolution

A. Timing

The college will seek to complete the investigation and adjudication within ninety (90) business days after the investigator's first interview of the complainant. When possible, investigations will proceed according to the aforementioned timeframe during the summer and at other times when the college is not in session. Timeframes for all phases of the grievance process, including the investigation, the hearing, and any related appeal, apply equally to both parties.

There may be circumstances that require the extension of time frames for good cause (e.g. the college is not in session). Time frames may be extended to ensure the integrity and completeness of the investigation or adjudication, comply with a request by external law enforcement, accommodate the absence of a party, advisor, or witness, or for other legitimate reasons, including the complexity of the investigation and the severity and extent of the alleged misconduct. The college will notify the parties in writing of any extension of the time frames for good cause, and the reason for the extension.

In accordance with college policy, the college will review requests for language assistance and accommodation of disabilities throughout the investigation and adjudication process.

Although cooperation with law enforcement may require the college to temporarily suspend the fact-finding aspect of an investigation, under such circumstances, the college will promptly resume its investigation as soon as the college is notified by the law enforcement agency that the agency has completed the evidence gathering process. The college will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide supportive measures for the complainant or respondent. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

B. Investigation

If the college Title IX coordinator has determined, following an initial assessment, that an investigation is appropriate, the college Title IX coordinator will refer the matter for investigation.

i. Collection of Evidence

The investigator will collect information from each party. While the complainant and the respondent are not restricted from gathering and presenting relevant evidence, the investigator is responsible for gathering relevant evidence to the extent reasonably possible. However, each party will be given an equal opportunity to suggest witnesses; provide other relevant information, such as documents, communications, photographs, and other evidence; and suggest questions to be posed to the other party or witnesses. Parties and witnesses are expected to provide all available relevant evidence to the investigator during the investigation. If a party or witness fails to provide available relevant evidence during the investigation, such evidence may, at the discretion of the presiding hearing board members be excluded from consideration at the hearing (see Part XI.6.c.ii.) . While parties are not restricted from presenting information attesting to the parties' character, such evidence generally is not considered relevant.

The investigator will provide to a party written notice of the date, time, location, participants, and purpose of all investigative interviews to which they are invited or expected, with sufficient time (generally no less than three (3) business days, absent exigent circumstances) for the party to prepare to participate.

Parties will be interviewed separately and will be interviewed by the investigator. The investigator will interview witnesses. The investigator will record all interviews, or notes of the interviews will be taken by the investigator. Any other recording of interviews is prohibited and violations may result in disciplinary measures.

In general, a party's medical and counseling records are confidential. The investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the investigator obtains that party's voluntary, written consent to do so.

The investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g. attorney-client, doctor-patient), unless the individual holding such privilege has waived the privilege.

ii. Case File

After each party has been interviewed and had the opportunity to identify witnesses and other potentially relevant information and evidence, and the investigator has completed any witness interviews and any gathering of evidence, the investigator will prepare a case file. The case file will include all collected evidence that is directly related to the allegations raised in the formal complaint, including the evidence upon which the college

does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation. The case file may include, as applicable, transcripts or summaries of party and witness interviews and other collected documents and evidence. The investigator will provide the case file to the college's Title IX coordinator.

The college's Title IX coordinator will review and redact personally identifiable information in accordance with privacy regulations, then disseminate the case file to each party and their advisor in electronic form or hard copy. In all cases, any information relied on in adjudicating the matter will be provided to the parties and their advisors. The college Title IX coordinator will also update and disseminate the notice of allegations, as appropriate.

Within ten (10) business days of receiving the case file, each party may respond in writing, which may include a request that the investigator collect additional evidence. If the investigator believes that further information is needed following receipt of any responses from the parties, the investigator will pursue any additional investigative steps as needed. The parties and their advisors will be provided with each party's written responses to the case file, if any, as well as any additional information collected by the investigator, in electronic format or hard copy.

Once the response period is over, the investigation will be considered closed and no new information will be gathered.

iii. Investigative Report

Following their review of the parties' responses (if any) to the case file, the investigator will create a written investigative report that covers relevant evidence; the report will not contain irrelevant information.

At least ten (10) business days prior to the hearing, the college's Title IX coordinator will provide to the parties and their advisors the final copy of the investigative report via electronic format.

iv. Assignment to Non-Title IX Related or Title IX Related Grievance Procedure

At the conclusion of the investigation, if the college has not previously determined that the case meets the threshold for the Title IX grievance procedure, the Title IX coordinator will make a final determination as to whether to proceed under the Title IX grievance procedure or the college's established grievance procedures (See Part XIV).

C. Title IX Hearing

The Title IX sex discrimination and sexual harassment hearing board will review the information and make a determination of responsibility or no responsibility by a preponderance of the evidence that means more likely than not, based on all of the relevant evidence and reasonable inference from the evidence that the respondent did or did not violate this policy. Should the Title IX sex discrimination and sexual harassment hearing board determine the respondent is responsible for the alleged violation, it will then determine an appropriate sanction (see Appendix B).

Title IX sex discrimination and sexual harassment hearing board (hearing board):
Composition of a Title IX sex discrimination and sexual harassment hearing board shall consist

of no less than three (3) members, and it shall be drawn from a pool of faculty and staff who are annually trained in the area of Title IX sex discrimination, harassment and the college's sexual misconduct policies and procedures. Typically, the hearing board will be referred cases of alleged Title IX sex discrimination and sexual harassment conduct violations that could result in sanctioning from warning, probationary status, housing contract revocation/visitation revocation, suspension or dismissal for findings of responsibility (See Appendix B). The hearing board will have absolute discretion with respect to administering the hearing. The hearing board will decide whether evidence and witnesses are relevant or irrelevant, with the understanding that the introduction of relevant evidence and witnesses will always be permitted.

The Chair: Each hearing board will have one member assigned to serve as the Chair for the hearing. The Chair will be responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, including a party, witness, or advisor.

Prior to the hearing, the hearing board will be provided with the case file, investigative report, and any responses to the investigative report. All members of the hearing board shall review the investigative report (including the parties' responses), ask questions during the hearing as they deem appropriate, and participate in the deliberations leading to the final decisions (as described in Part XI.6.c.)

Board Coordinator: Title IX sex discrimination and sexual harassment hearing boards will also have a hearing board officer assigned to the case. The hearing board coordinator refers to a college official designated by the Title IX coordinator to advise hearing board members, complainants, and respondents on procedural issues related to the hearing process and policies as outlined in the Title IX sex discrimination, sexual harassment, and sexual misconduct policy and procedures. Hearing board coordinators are not members of the hearing board and do not have influence with any decisions made by the hearing board.

Advisors: See Appendix C of this document for policy on Advisors.

At least five (5) days prior to the hearing, the parties and their advisors will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely) and invited to meet with the assigned board coordinator to review the Title IX hearing board's procedures.

At least (5) days prior to the hearing the parties will be required to identify witnesses to be called at the hearing, as well as to provide a brief written explanation of the information each witness would be asked to provide. This information will need to be submitted to the board coordinator who will than disseminate the information to the hearing board. The hearing board has the discretion to exclude from the hearing evidence/ witnesses/questions deemed irrelevant.

i. Standard of Proof

The standard of proof under this policy is preponderance of the evidence. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences from the evidence, that the

respondent violated this policy.

ii. Expectation Regarding the Complainant, the Respondent, and the Witnesses Regarding the Hearing

In all proceedings under this policy, including at any meeting leading up to and at the hearing, the complainant, the respondent, and the witnesses and other individuals sharing information are expected to provide truthful information.

If the complainant, the respondent, or a witness informs the college that they will not attend the hearing (or will refuse to be cross-examined), the hearing may proceed, as determined by the college Title IX coordinator. The hearing board may not, however, draw any adverse inference in reaching a determination regarding responsibility based solely on the individual's absence from the hearing (or their refusal to be cross-examined).

Hearings may be conducted in person or by video conference or any other means of communications by which all individuals participating are able to see and hear each other. Each party may make requests related to the format or the nature of their participation in the hearing.

All requests made must be made no less than (3) business days prior to the hearing. Such request will need to be submitted to the hearing board officer who will than disseminate the information to the hearing board for consideration and decisions.

iii. Case Presentation

While the hearing is not intended to be a repeat of the investigation, the parties will be provided with an equal opportunity for their advisors to conduct cross examination of the other party (and of relevant witnesses, if any). Such cross examination must be conducted directly, orally, and in real time by the party's advisor and never by a party personally. Only relevant cross examination questions may be asked of a party or witness. Before a party or witness answers a cross-examination question that has been posed by a party's advisor, the hearing board must first determine whether the question is relevant and explain any decision to exclude a question that is deemed not relevant.

iv. Record of Hearing

The college shall create an official record in the form of a recording or transcript of any live (or remote) hearing and make it available to the parties for inspection and review. Any other record of the hearing or any other recording is prohibited, and violations may result in disciplinary measures.

v. Findings Letter

Following the hearing, the hearing board will consider all the relevant evidence and deliberate regarding responsibility. The hearing board shall make a determination, by a preponderance of the evidence, whether the respondent has violated the policy. A formal findings letter will be written which will contain: (1) the allegations potentially constituting Title IX sexual harassment; (2) a description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather other information, and the hearing); (3) findings of fact supporting the determination; (4) conclusions regarding the application of this policy to the facts; (5) a statement of, and

rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a policy violation occurred), any disciplinary sanctions imposed by the hearing board if there has been a finding of responsibility (as described in Part XI.6.D.), and whether any remedies designed to restore or preserve equal access to the college's education program or activity or working environment will be implemented; and (6) relevant appeal information for the parties. Disciplinary sanctions and remedies will be determined in accordance with the procedures listed below, and the information will be provided to the Chair for inclusion in the written determination.

The respondent and complainant and their advisors will simultaneously be provided with the written determination via electronic format.

D. Disciplinary Sanctions and Remedies (to be included in the Findings Letter)

If a party is found to have violated this policy, the Title IX sex discrimination, sexual harassment, and sexual misconduct hearing board will determine appropriate remedies/sanctions for the policies the respondent was found responsible. Any sanctions being imposed will be included in the written determination letter ("Findings Letter"). See Appendix B for Sanctions.

Factors to be Considered When Determining a Sanction

In determining an appropriate sanction, the Title IX sex discrimination, sexual harassment, and sexual misconduct hearing board will take into account the following considerations: the seriousness of the violation; sanctions typically imposed for similar violations; prior disciplinary history; and any other circumstances indicating that the sanction should be more or less severe. See Appendix B for Sanctions

- **For students**: Remedies (also referred to as Sanctions) may include but are not limited to one or more of the following: dismissal; suspension; housing contract revocation; housing contract probation; housing restriction or relocation; educational/counseling requirement; no-contact order; and/or restriction from specific college programs or activities. Please refer to Appendix B for definitions of sanctions that could be imposed.
- **For employees:** Remedies may include but are not limited to one or more of the following: involuntary separation/termination, suspension/administrative leave, job restriction or reassignment, and/or performance notice/counseling. Please refer to the Employee Handbook for further information that could be imposed under this policy.

Part XII: Appeals

Appeals under this policy will be heard by an appeal panel (appeal board) comprised of three individuals that were not original members of the Title IX sex discrimination, sexual harassment, and sexual misconduct hearing board. The appeal board members shall decide appeals by majority vote.

The appeal board will also have an appeal board coordinator assigned to the case. The appeal board coordinator refers to a college official designated by the Title IX coordinator to advise appeal board members, complainants, and respondents on procedural issues related to the appeal process and policies as outlined in the Title IX sex discrimination, sexual harassment, and sexual misconduct policy and procedures. The appeal board is also responsible for consolidating and dissemination all information submitted on appeal. Appeal board coordinators are not members of the hearing board and do not have influence with any decisions made by the hearing board.

Both parties have equal rights to an impartial appeal at the following junctures:

1. Upon the dismissal of a formal complaint or any allegations therein.
2. Upon receiving the formal findings letter regarding responsibility and, when applicable, sanction and remedies.

Appeals may be submitted on the following bases: (1) procedural irregularity, in that the grievance process was not conducted in accordance with the procedures prescribed in this document and that the procedural error must have affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made which could affect the outcome of the matter and/or; (3) a conflict of interest on the part of the Title IX coordinator or their staff, investigator(s), any member of the hearing board had a conflict of interest against complainants or respondents that affected the outcome of the matter.

Information that is not considered sufficient criteria for a reasonable claim of appeal includes: (1) disagreement with the findings and/or sanction of the hearing, (2) failure to appear at an appropriately scheduled hearing; and/or (3) failure to comply with a sanction.
An appeal is limited in scope. The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of college's rules has occurred.

The non-appealing party will be provided with a copy of the appealing party's completed **Electronic Appeal Form** within five (5) business days of receipt of the appealing party's written statement. The non-appealing party's statement will be provided to the appealing party. No further appeal submissions from the parties shall be permitted.

The record on appeal is limited to a review of the written appeal document submitted by the appellant(s), the written record of the incident in question, any other documentation or information gathered at the hearing, an interview with the original hearing officer or the coordinator of the hearing board, and any alleged "new information" in an appeal based, in whole or in part, or a claim of "new information," as described above.

The appeal review meeting is considered closed unless the appeal board reviewing the appeal requests the respondent and/or complainant (if applicable) to attend the appeal review meeting to explain any possible "new information". The decision to request the respondent and/or complainant (if applicable) to attend is at the discretion of the appeal board reviewing the appeal.

The party who wishes to appeal must contact the Department of Citizenship Education by email studentconduct@colby-sawyer.edu indicating an intent to appeal within (5) days of the delivery date of the original hearing board's findings letter. After the Department of Citizenship Education receives the party's request/intent to appeal, the party making the request you will then be sent instructions on how to properly appeal and be provided with the Electronic Appeal Form as an attachment to the email. **This is not an appeal; this is only requesting instructions on how to properly appeal**. Once the party receives the instruction and the Electronic Appeal Form, the party must submit the completed document within (5) days of receiving the form and instructions.

The appeal shall consist of a completion of the Electronic Appeal Form. All appeals must only be completed on the Electronic Appeal Form. The non-appealing party will be provided with a copy of the appealing party's completed Electronic Appeal Form and may submit a written response, within three (3) business days of receipt of the appealing party's submission of the appeal. The non-appealing party's statement will be provided to the appealing party. No further appeal submissions from the parties shall

be permitted.

In deciding an appeal, the appeal board may consider the case file and any responses, investigative report and any responses, the hearing record, the written determination, and any written appeal(s) or statements by the parties. The appeal board also may consider any other materials the college deems relevant and that have been made available to both parties.

The parties and their advisors will simultaneously be provided (via electronic format) with the findings letter describing the result of the appeal and the rationale for the result.

- If the appeal is based on new evidence that was not reasonably available at the time of the determination of responsibility or dismissal, and such evidence could alter the outcome of the matter, the matter will be referred back to the original hearing board, which originally heard the case to allow for consideration of the new information.
- If the appeal indicates procedural irregularity that affected the outcome of the matter, the matter will be referred to a new hearing board, to allow for reconsideration of the results of the original finding(s).
- If the appeal board finds that the college Title IX coordinator or their staff, investigator(s), member of the hearing board, had a conflict of interest against complainants or respondents that affected the outcome of the matter, the appeal board will take appropriate measures to address and remediate the impact of the conflict consistent with the general procedures of this policy.

The appeal board will seek to complete the appeal review within twenty (10) business days of receipt of the appealing party's submission of the Electronic Appeal Form.

The determination regarding responsibility becomes final either on the date that the parties are provided with the formal written appeal findings letters determination of the result of an appeal if an appeal is filed (at which point the Title IX sex discrimination and sexual harassment grievance process is concluded), or if an appeal is not filed, within (5) days of the delivery date of the original hearing board's findings letter (at which point the Title IX sex discrimination and sexual harassment grievance process is concluded).

Part XIII: Institutionally Established Grievance Procedures for Allegations Against Employees

The college will strive to complete investigations in a prompt and reasonable manner, within ninety (90) days, taking into account scheduled breaks, vacation periods and other obligations.

The standard of evidence used to determine whether the alleged violation of the policy occurred is preponderance of the evidence.

A person who believes they have been subject to prohibited conduct outlined in this document may report the complaint to the Title IX coordinator. Complaints of prohibited conduct shall be investigated by the Title IX coordinator or designee.

During the investigation, the investigator may speak to the complainant, the respondent, and any relevant witnesses. The investigator will gather any relevant evidence or documentation, which will be combined in an investigative report and forward it to the Title IX coordinator. The report shall include:

1. a description of the alleged conduct;
2. a summary of evidence gathered in the course of the investigation;

3. evidence gathered that supports and contradicts the allegation; and
4. the balance of the evidence gathered.

The Title IX coordinator will review the completed investigative report, consult with a deputy Title IX coordinator from Human Resources, and compile a letter that outlines the following:

1. notice of the policy that was allegedly violated;
2. a summary of the findings, and;
3. any sanctions or recommendations

Sanctions and recommendations may be determined in conjunction with the vice president for Human Resources and chief diversity officer or designee.

Part XIV: Institutionally Established Sexual Misconduct Hearing Process for Allegations Against Students

All allegations of prohibited conduct will be investigated in a manner that is prompt, thorough, and equitable. Matters involving student respondents which do not meet the standard for the Title IX grievance process will be adjudicated using the procedures outlined in this section.

The sexual misconduct hearing board (hearing board) will review the information and make a determination of responsibility or no responsibility by a preponderance of the evidence that means more likely than not, based on the all of the relevant evidence and reasonable inference from the evidence that the respondent did or did not violate this policy. Should the hearing board determine the respondent is responsible for the alleged violation, it will then determine an appropriate sanction (see Appendix B).

Sexual Misconduct Hearing Board (hearing board): Composition of a sexual misconduct hearing board shall consist of no less than three (3) members, and it shall be drawn from a pool of faculty and staff who are annually trained in the area of Title IX sex discrimination, sexual harassment and sexual misconduct policies and procedures. Typically, the hearing board will be referred cases of alleged sexual misconduct conduct violations that could result in sanctioning from warning, probationary status, housing contract revocation/visitation revocation, suspension or dismissal for findings of responsibility (See Appendix B). The hearing board will have absolute discretion with respect to administering the hearing. The hearing board will decide whether evidence and witnesses are relevant or irrelevant, with the understanding that the introduction of relevant evidence and witnesses will always be permitted.

The Chair: Each hearing board will have one member assigned to serve as the Chair for the hearing. The Chair will be responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, including a party, witness, or advisor.

Prior to the hearing, the hearing board will be provided with the case file, investigative report, and any responses to the investigative report. All members of the hearing board shall review the investigative report (including the parties' responses), ask questions during the hearing as they deem appropriate, and participate in the deliberations leading to the final decisions (as described in Part XI.6.C.)

Board coordinator: The sexual misconduct hearing board will also have a hearing board officer assigned to the case. The hearing board coordinator refers to a college official designated by the vice president for Student Development and dean of students to advise hearing board members, complainants, and respondents on procedural issues related to the hearing process and policies as

outlined in Colby- Sawyer College's established grievance procedures for allegations against students. Hearing board coordinators are not members of the hearing board and do not have influence with any decisions made by the hearing board.

At least ten (10) days prior to the hearing, the parties and their advisors will be notified of the hearing date, time, and location (or relevant electronic information, if the hearing will be conducted remotely) and invited to meet with the assigned board coordinator to review the sexual misconduct hearing board's procedures.

At least five (5) days prior to the hearing the parties will be required to identify witnesses to be called at the hearing, as well as to provide a brief written explanation of the information each witness would be asked to provide. This information will need to be submitted to the board coordinator who will than disseminate the information to the hearing board. The hearing board has the discretion to exclude from the hearing evidence/ witnesses/questions deemed irrelevant.

All hearings are closed to the public. A recording will not be made by the college. All other recordings are prohibited.

A complainant, respondent, or witness may decline to participate in the hearing. The sexual misconduct hearing board will not draw an inference about the responsibility determination based solely on a party's or witness's absence from the hearing or refusal to submit to questions.

The complainant and respondent have equal rights to an impartial appeal, as outlined in Part XII (Appeals) of this policy

Disciplinary Sanctions and Remedies (to be included in the Findings Letter)

Sanctions serve an important role in shaping a safe and positive community, while also holding a student accountable for their violations. Sanctions are designed to restore safe and positive environments, deter repeat violations, assist those impacted by the misconduct, reaffirm community expectations, to connect students with appropriate resources, and provide educational and reflective opportunities for students.

If a party is found to have violated this policy, the sexual misconduct hearing board will determine appropriate remedies/sanctions for the policies the respondent was found responsible for violations. Parties are always welcome to propose sanctions that the party believes will be most helpful while considering the purpose of sanction(s). Parties should talk to the assigned hearing coordinator for helpful tools/guides that will best assist with submitting a self-proposed sanction(s). All sanction(s) (including self-proposed sanctions will be assigned at the discretion of the hearing board. Any sanctions being imposed will be included in the written determination letter ("Findings Letter"). See Appendix B for Sanctions.

Factors to be Considered When Determining a Sanction

In determining an appropriate sanction, the sexual misconduct hearing board will take into account the following considerations: the seriousness of the violation; sanctions typically imposed for similar violations; prior disciplinary history; and any other circumstances indicating that the sanction should be more or less severe. See Appendix B for Sanctions.

- **For students**: Remedies (also referred to as Sanctions) may include but are not limited to one or more of the following: dismissal; suspension; housing contract revocation; housing contract probation; housing restriction or relocation; educational/counseling requirement; no-contact

order; and/or restriction from specific college programs or activities. Please refer to Appendix B for definitions of sanctions that could be imposed.

- **For employees:** Remedies may include but are not limited to one or more of the following: involuntary separation/termination, suspension/administrative leave, job restriction or reassignment, and/or performance notice/counseling. Please refer to the Employee Handbook for further information.
-

See Part XII: Appeals for the appeal process for Institutionally Established Grievance Procedures.

Part XV: Training

Education, Prevention, and Awareness Programs: The colleges engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to reduce and eliminate Prohibited Conductor other forms of prohibited conduct which:

- are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome;
- consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels;
- include primary prevention and awareness programs directed at incoming students and ongoing prevention and awareness campaigns directed at current students; and
- include programs focused risk reduction and bystander intervention.

Training of College Officials: The college will provide appropriate training to college officials with responsibilities under this policy, including the college Title IX coordinator/deputy coordinators, employees in the Department of Citizenship Education, investigators, hearing board members, and appeal board members. Such training will cover the definition of Title IX sex discrimination, sexual harassment, and sexual misconduct, the scope of the college's education program or activity, how to conduct an investigation and grievance process including hearings, and appeals under this policy, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The college will ensure that hearing board members receive training on any technology to be used at a hearing and on issues of relevance of questions and evidence, including questions and evidence about the irrelevancy of complainant's sexual predisposition or prior sexual behavior. The college will ensure that investigators receive training on issues of relevance in order to create an investigative report that fairly summarizes relevant evidence. These training materials are publicly available on the college's Title IX website and will be made available for in-person review upon request made to the Title IX coordinator. In addition, college officials with responsibilities under this policy will receive training related to intersectionality. For Title IX Information pertaining to training and programing refer https://www.colby-sawyer.edu/about/policies/titleix/about.

Part XVI: Record Retention

The college will maintain for a period of seven years records of the following:

- each Title IX sex discrimination, sexual harassment and sexual misconduct grievance process conducted under this policy (no matter what the finding), including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the respondent, and remedies provided to the complainant designed to restore or preserve access to the college's education program or activity;
- any appeal and the result therefrom;
- files and records related to complaints filed, even if formally dismissed; and

- all materials used to train college Title IX coordinator/deputy coordinators, investigators, hearing board members, appeal board members with regard to Title IX sexual harassment and institutionally established grievance procedures;

Additionally, the college will maintain records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX sexual harassment. In each instance, the college's Title IX coordinator will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the college's educational and working program or activity. If the college does not provide a complainant with supportive measures, then the college will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The Title IX coordinator is designated as the custodian of these records.

For information on the student's transcript notations refer to "Student Official Transcript Notation" located in the Code of Community Responsibility.

For information on employment record notations refer to the college's Employee Handbook.

Part XVII: Modification and Review of Policy

Colby-Sawyer College reserves the right to modify this policy to take into account applicable legal requirements or extraordinary circumstances. At regular intervals, the college will review this policy to determine whether modifications should be made.

With respect to alleged conduct prohibited by this policy, this process shall supersede all previous and existing Colby-Sawyer College procedures regarding informal or formal resolutions of grievances, complaints, or other concerns relating to staff or faculty, including but not limited to those procedures set out in the college's employment handbook or any other formal or informal grievance process adopted or used by Colby-Sawyer College.

Appendix A: Campus Resources, Confidential Resources and Law Enforcement

1. Campus Resources

- Title IX coordinator
  Robin Burroughs Davis
  Phone: (603) 526-3752
  Address: Room 105 Ware Student Center

  Title IX deputy coordinators
  - Amanda Moak (students)
    Address: Room 125 Ware Student Center
    Phone: (603) 526-3741

  - Hilary Williams (faculty)
    Address: Room 131 Colgate Hall
    Phone: (603) 526-3669

  - Heather Zahn (staff, administration and visitors)
    Address: Room 230A Colgate Hall
    Phone: (603) 526-3584

- Student Development Office
  Phone: (603) 526-3758
  Address: 541 Main Street, New London, NH, 03257

  For inquiries with academic concerns, changes in housing or other accommodations and referrals to other resources.

- Area coordinators (AC's): Area coordinators are live-in professionals who play a critical role in the lives of students in the residence halls. The AC is a member of the Student Development team who reports directly to the director of Residential Education.

- Resident assistants (RA's): RAs are undergraduate students living in the residence halls who are employed by Residential Education and trained to refer students to campus resources.

2. Confidential Resources

Information shared with Confidential Resources (including information about whether an individual has received services) will be disclosed to the college Title IX coordinator or any other individual only with the individual's express written permission, unless there is an imminent threat of serious harm to the individual or to others, or a legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor). For more information about confidentiality and Confidential Resources, see Part VI.1.

Campus Confidential Resources include:

For Students:

i. **On-campus: Baird Health and Counseling Center counselors, nurses, and nurse practitioners can be reached during regular business/office hours (9AM-3PM)** - (603) 526-3621

ii. **On-campus: Director of Baird Health and Counseling Center and the three full-time counselors are designated Confidential Resource Advisors (CRAs) can be reached during regular business/office hours (9AM-3PM)** - (603) 526-3621
iii. **Off Campus: Riverbend Counselors (after regular business/office hours) –** 1-844-743-5748 or by contacting Campus Safety at (603)526-3300
iv. **Off Campus: Thrive Survivor Support Center (formerly Crisis Center of Central New Hampshire)** - (603) 225-7376
Thrive provides confidential crisis support 24 hours a day relating to rape, sexual assault, or dating and domestic violence via its 24-Hour Crisis Line: (866) 841-6229
v. **Off Campus: New London Hospital** – (603) 526-2911 and is located at 273 County Rd., New London, NH 03257
New London Hospital provides 24-hour emergency care and is located a mile and a half from campus.

For Employees:

i. **Employee Assistance Plan** - (855-775-3457)
ii. **Thrive Survivor Support Center (formerly Crisis Center of Central New Hampshire)** - (603)225-7376
Thrive provides confidential crisis support 24 hours a day relating to rape or sexual assault via its 24-Hour Crisis Line: (866) 841-6229
iii. **New London Hospital** – (603) 526-2911
New London Hospital provides 24-hour emergency care and is located a mile and a half from campus.

For Colby-Sawyer Visitors:

i. **Thrive Survivor Support Center (formerly Crisis Center of Central New Hampshire)** - (603)225-7376
Thrive provides confidential crisis support24 hours a day relating to rape or sexual assault via its 24-Hour Crisis Line: (866) 841-6229
ii. **New London Hospital** – (603) 526-2911

3. Emergency Resources and Law Enforcement

A crime that occurs off campus should be reported to the police department having legal jurisdiction. Campus Safety is here to assist you in the event you are unsure of the appropriate police department to contact. Call 603-526-3675 or, in case of an emergency, call 9-1-1. While CSC does not operate any off-campus student organization facilities, the college does own residences in close proximity to campus. While the New London Police Department has primary jurisdiction in all areas off campus, Campus Safety Officers respond to student-related incidents that occur on property owned and leased by the college.

For more information about filing a criminal complaint with law enforcement or obtaining a court issued protective order, please contact:

Department of Campus Safety:
24/7/365: (603) 526-3300
Administrative: (603) 526-3675

New London Police Department: Emergency: 9-1-1
Non-Emergency: (603) 526-2626

If a student has obtained a court issued protective order, the student should provide that

information to the Department of Campus Safety.

The New Hampshire Department of Justice Victim Compensation Program can help “any person who sustains physical and/or mental injuries in a felony or misdemeanor crime, which occurred in New Hampshire.” Medical and mental health counseling costs, which are not covered by insurance, may be eligible. Contact the following for more information:

New Hampshire Victims' Compensation Program
Department of Justice
33 Capitol Street
Concord, NH 03301-6397
Telephone: (603) 271-1284
Toll Free: 1-800-300-4500 (in NH only)
TDD Access Relay NH 1-800-735-2964
Email: victimcomp@doj.nh.gov

Appendix B: Range of Sanctions under this Policy

Members of the college community may be subject to disciplinary sanctions for violating this policy.

1. Sanctions Applicable to Students

The following sanctions may be imposed on any student found to have violating college policies. This is not an exhaustive list of sanctions. Although sanctions may be imposed individually, most often time's findings of responsibility will result in various combinations to ensure the educational essence is emphasized throughout this process.

Parental Notification: The college reserves the right to contact a student's parent or legal guardian to inform them if the student has been found responsible for violating the college's alcohol policy and the student is under the legal age to consume or possess alcohol; if the student has been found responsible for violating the college's drug policy; and/or the student has been sanctioned housing contract probation, housing contract revocation, suspension, or dismissal.

Refund Policy: Colby-Sawyer College's refund policy for disciplinary cases stipulates that no refunds for tuition, fees, or housing are given for disciplinary action.

Examples of Educational sanctions (applicable to all students):

a. **Warning:** A letter that informs the student that they violated college policy and a notice that another violation will likely result in a more severe sanction which could include a college probation, suspension, or dismissal.
b. **Restitution:** Reimbursement for damage to, destruction of, or misappropriation of, college property or any property of any member of the college community. The student may also be required to provide service appropriate to the violation (e.g. cleaning/repairing a vandalized area etc.).
c. **Educational Programs and Assignments:** The student is required to complete a project and/or assignment specifically relevant to the policy violation(s). Some examples of educational programs and assignments are but not limited to: informative/research paper or presentation; reflection paper; bulletin board; appointments with Baird Health and Counseling and/or outside counseling service at the students cost; anger management training; and 3rd Millennium Classroom Alcohol or Marijuana Course.
d. **Fines:** A sum of money, independent of restitution, assessed against an individual. Fines are to be paid through the Colby-Sawyer Storefront located on the Financial Services Web page. Refer to the findings letter for specifics on how to pay the fine.
e. **Behavioral Agreement/Contract:** A statement of agreement between the student and a hearing forum or college official (1) acknowledging the infraction(s) of the Code, (2) identifying a behavior/action plan, and (3) agreeing to the specified consequence(s) of failure to adhere to the behavior/action plan.
f. **Administrative Non-Contact Order** is a sanction imposed to discontinue intentional/unwanted contact between two parties.
g. **One-Way Administrative Non-Contact Order** is a sanction imposed against one person (i.e. Respondent OR Complainant), preventing said person having intentional/unwanted contact with another party.
h. **Loss of Privileges:** The removal of certain student privileges, including but not limited to the following: the privilege to host guest on campus; the privilege to host guest in the student's assigned residence halls space or other college buildings; the privilege to have stereos or

other sound equipment in the student's residence hall space; the privilege to participate in extra- curricular activities such as activities on campus or hosted by the college; participation in senior week activities; the privilege to participate in a club activity or dance; or the privilege to apply to reside in certain residence hall spaces such as college owned houses.

Traditional Residential Students (to include residential students who reside in college housing):

i. **Disciplinary Probation** is a designated period during which additional behavior in violation of college regulations will likely constitute grounds for further disciplinary action. The hearing officer or forum will determine the length of the sanction and determine if there are particular conditions and/or restrictions attached to the status. Further violations of the Code could result in sanctioning which includes, but is not limited to: housing contract probation; housing contract revocation; suspension; or dismissal from the college. During this probationary period the student's scholarship may be affected. For questions about whether scholarships are affected, the student should contact the Financial Aid Office. Any student who falls under the college's residency requirement whose housing has been revoked for disciplinary reasons is required to pay the room and board portion of the housing contract as long as they are enrolled at the college. Colby-Sawyer College's refund policy for disciplinary cases stipulates that no refunds for tuition, fees, or housing are given for disciplinary action.

j. **Housing Contract Probation** is defined as a designated period during which additional behavior in violation of college regulations will constitute grounds for more serious disciplinary action. The hearing officer or forum will determine the length of the probation and determine if there are particular conditions and/or restrictions attached to the status. Further violations of the Code could result in sanctioning which includes, but is not limited to: housing contract revocation; suspension; or dismissal from the college. During this probationary period the student may be ineligible for college awards, honors, scholarships or to study abroad through Colby-Sawyer College affiliated programs. For questions about whether scholarship(s) are affected, the student should contact the Financial Aid Office. Any student who falls under the college's residency requirement whose housing has been revoked for disciplinary reasons is required to pay the room and board portion of the housing contract as long as they are enrolled at the college. Colby-Sawyer College's refund policy for disciplinary cases stipulates that no refunds for tuition, fees, or housing are given for disciplinary action.

k. **Housing Contract Revocation:** Housing contract revocation is defined as a designated period during which a student is prohibited from living or visiting in college owned or leased residence halls and buildings. Further violations of the Code could result in sanctioning which includes, but is not limited to: permanent housing contract revocation; suspension; or dismissal from the college. The hearing officer or forum will determine the length of the revocation and determine if there are particular conditions and/or restrictions attached to the status. During this time of housing contract revocation, the student may be ineligible for certain college awards, honors, scholarships or to study abroad through Colby-Sawyer College affiliated programs. For questions about whether scholarship(s) are affected, the student should contact the Financial Aid Office. Any student who falls under the college's residency requirement whose housing has been revoked for disciplinary reasons is required to pay the room and board portion of the housing contract as long as they are enrolled at the college.

l. **College Owned Houses Privilege Revocation:** If a student living in one of the college owned houses is found responsible for a policy violation that would typically result in housing contract probation, it is likely that they will lose the privilege of living in the college house and will be provided the option to return to housing on-campus at the discretion of the college.

Examples of incidents that could result in this revocation could include, but is not limited to, policy violations in the following areas: failure to register a social function; violation of social function agreement; alcohol; disorderly conduct; failure to comply; occupancy/trespassing; drugs; endangering behaviors; harming behaviors; weapons/firearms; and hazing. Colby-Sawyer College's refund policy for disciplinary cases stipulates that no refunds for tuition, fees, or housing are given for disciplinary action.

Non-Residential Students (Commuter Students):

m. **Visitation probation** is defined as a designated period during which additional behavior in violation of college regulations will constitute grounds for further disciplinary action to include but not limited to: visitation restriction; visitation revocation; suspension; or dismissal. The hearing officer or board will determine the length of the probation and determine if there are particular conditions and/or restrictions attached to the status. This probation does not limit a student in regards to where they can visit. During this probationary period, it is expected that the student will become fully knowledgeable about the Code of Community Responsibility and not violate the policies set forth in the document. During this time of visitation probation, the student may be ineligible for certain college awards, honors, scholarships or to study abroad through Colby-Sawyer College affiliated programs. For questions about whether scholarship(s) are affected, the student should contact the Financial Aid Office.

n. **Visitation restriction** is defined as a designated period during which additional behavior in violation of college regulations will constitute grounds for more serious disciplinary action including, but not limited to: visitation revocation of college housing; and/or suspension or dismissal from the college. The hearing officer or forum will determine the length of the restriction and determine if there are particular conditions and/or restrictions attached to the status. This visitation restriction means that a student may only visit college owned residential buildings between the hours of 7 a.m. – 7 p.m., Friday, Saturday and 7 a.m. – 9 p.m. Sunday, Monday, Tuesday, Wednesday, and Thursday. To visit the residential building, the non-residential student is required to be with a residential student at all times and must follow the same guidelines as any other guest of Colby-Sawyer College. Non-residential students on this restriction may not register as an overnight guest. During the visitation restriction period the student may be ineligible for certain college awards, honors, and scholarships or to study abroad through Colby-Sawyer College affiliated programs. For questions about whether a scholarship is affected, the student should contact the Financial Aid Office.

o. **Visitation revocation** means that a student may not visit college owned residential buildings. If for any reason a student who has had their visitation privileges revoked believes they need to enter a residential building that is owned or leased by Colby-Sawyer College, that student must receive explicit permission by a professional department member from the Department of Residential Education, Campus Safety, Citizenship Education or the vice president for Student Development and dean of students. If the student receives permission to enter a college owned or leased residential building that student must be accompanied by a professional department member from Residential Education or Campus Safety. Violations of this revocation will more than likely result in an extension of the revocation period and or further disciplinary action to include suspension or dismissal. During the time that a student's visitation privilege has been revoked, the student may be ineligible for certain college awards, honors, scholarships or to study abroad through Colby-Sawyer College affiliated programs. For questions about whether a scholarship is affected, the student should contact the Financial Aid Office.

All students – probationary suspension, suspension and dismissal

p. **Probationary Suspension:** is defined as the highest level of probationary status, which will

remain in place for a designated period of time. The hearing officer or board will determine the length of the probation and determine if there are particular conditions and/or restrictions attached to the status. Any violation(s) of specified policies, regardless of seriousness, which occurs during the probationary suspension period, will more than likely result in immediate activation of the suspension or dismissal from Colby-Sawyer College. During this probationary period the student may be ineligible for certain college awards, honors, and scholarships or to study abroad through Colby-Sawyer College affiliated programs. For questions about whether a scholarship is affected, the student should contact the Financial Aid Office. Any student who falls under the college's residency requirement whose housing has been revoked for disciplinary reasons is required to pay the room and board portion of the housing contract as long as they are enrolled at the college. Colby-Sawyer College's refund policy for disciplinary cases stipulates that no refunds for tuition, fees, or housing are given for disciplinary action.

q. **Suspension:** Suspension from Colby-Sawyer College means separation from the college for a specified period of time after which the student may re-enroll or re-apply for re-admission. A suspended student is subject to arrest for trespass and is not allowed on college grounds without the prior written authorization by the vice president for Student Development and dean of students, the director of Campus Safety or their designee. In order to be eligible for readmission, the student must complete all portions of assigned the sanctions that the hearing officer or forum may additionally assign and be cleared by the Department of Citizenship Education. During the time of the suspension the student may be ineligible for certain college awards, honors, and scholarships or to study abroad through Colby-Sawyer College affiliated programs. For questions about whether a scholarship is affected, the student should contact the Financial Aid Office. Colby-Sawyer College's refund policy for disciplinary cases stipulates that no refunds for tuition, fees, or housing are given for disciplinary action.

r. **Dismissal** is a permanent separation from the college with no opportunity to re-enroll or re-apply for re-admission. A dismissed student is subject to arrest for trespass and is not allowed on college ground without prior authorization from the vice president for Student Development and dean of students, the director of Campus Safety or their designee. If for any reason the student believes he or she needs to enter Colby-Sawyer College property or Colby-Sawyer sponsored events after the date and time of the student's dismissal, the student must receive explicit permission from the vice president for Student Development and dean of students, the director of Campus Safety or their designee. If the student receives permission to enter Colby-Sawyer College property or college sponsored event, the student must be accompanied by a professional department member from Residential Education or Campus Safety. Colby-Sawyer College's refund policy for disciplinary cases stipulates that no refunds for tuition, fees, or housing are given for disciplinary action.

1. The following sanctions may be imposed upon registered student club and/or organization:
   a. The sanctions outlined above;
   b. Loss of club/organization recognition: Loss of all college privileges for a designated period of time.
   c. Loss of club/organization recognition for more than two consecutive semesters requires an organization to re-apply for college recognition. Conditions for future recognition may be specified.
2. **Aggravated Violations:** If a student is responsible for violation of any college policy that is directed toward an individual or group due to race, ethnicity, ancestry, national origin,

religion, gender, sexual orientation, gender identity, gender expression, age, physical or mental disabilities, including learning disabilities, intellectual development, disorders, and past/present history of mental disorder the hearing officer or hearing forum may increase the sanctions.

2. Sanctions Applicable to Faculty and Staff Members

Sanctions may include but are not limited to one or more of the following: involuntary separation/termination, suspension/administrative leave, job restriction or reassignment, and/or performance notice/counseling.

The college may place a faculty or staff member on administrative leave during the pendency of a grievance process, provided that such action shall not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. Contact the college's Human Resources Department for definitions of sanctions that could be imposed under this policy.

Appendix C: Advisor

Advisor refers to the Title IX requirement that allows parties to select an advisor of their choosing to accompany the party for any portion of the grievance process (including all meetings and investigations associated with the Title IX process).

Title IX also requires an advisor to attend the "live hearing" portion of the grievance process. In instances where either party does not select an advisor of their choosing, the college is required to provide one. There is no equity requirement the college must meet in the college's selection of an advisor on behalf of a party.

In instances that either party does not select an advisor of their choosing, the college is required to provide one. There is no equity requirement the college must meet in the college's selection of an advisor on behalf of a party.

*In the event a party chooses an identified witness to serve as their advisor, the witness serving in the role of advisor will only be permitted to be present in the room for the "cross-examination" portion of the live hearing process for the sole purpose of asking the parties relevant questions on behalf of the party. The only exception to this would be in any case the decision-makers call upon the witness/advisor to participate as a witness during the live hearing process. In such cases, the witness will be brought in for that purpose and subsequently excused.

Per the Title IX Regulations, the college is required to provide the advisor with the investigative report and evidence subject to inspection and review prior to the start of the live hearing process.

For non-Title IX cases that fall under the college's institutionally established sexual misconduct hearing process, the advisor serves as a support person for the party. The advisor may still accompany the party for any portion of the grievance process (including all meetings and investigations associated with the matter).

Advisor's function, rules of relevancy and decorum for the live hearing:
The function of an advisor in a Title IX hearing is to conduct cross examination on behalf of their party. Title IX requires that the college permit each advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

The advisor will ask only the questions as the party has provided them, and may not ask questions that the advisor themselves has developed without their party. Neither party is permitted to conduct cross-examination.

The function of an advisor in Colby-Sawyer College's institutionally established sexual misconduct hearing process is to confer with the party during the hearing, but to not otherwise participate in the hearing by asking questions of any party or witness.

Rules of relevancy and decorum:

- Relevant questions are those which help the decision-makers determine if something is more or less true.
- Questions are used to identify consistency or understand a fact; they may not include accusations within the text of the question. All relevant questions must be asked out loud by the advisor on behalf of the party;

- All relevant questions made by the advisor must be asked in a respectful, non-abusive manner; Questions cannot be duplicative or repetitive to the information already presented. Questions and evidence about complainant's sexual history, sexual predisposition, and *sexual behavior are not relevant unless questions or evidence about such behavior are offered to show that a person other than the respondent committed the alleged conduct.*Sexual behavior in this context refers to sexual behavior that is unrelated to the alleged conduct
- Questions pertaining to either party's medical, psychological, and similar records are not permitted unless the party provides written consent for release of inquired information.

Prior to the party or witness answering the questions the Chair will decide if the questions asked is relevant. In event the questions is deemed not relevant the Chair will exclude the question and provide an explanation for the decision.

Throughout the live hearing process, the advisor's role is limited. Advisors are only permitted to speak in the live hearing process during the time in which the college provides the opportunity for the party's advisor to ask relevant questions on behalf of the party. The advisor is not representing their party. Advisors may not raise objections or make statements or arguments during the live hearing.

Advisors are permitted to confer with a party, but may not interfere with, advocate for, or speak in place of the party.

All participants at the live hearing are expected to abide by the Chair's directions and decision, maintain civility, and avoid emotional outbursts and raised voices.

Failing to comply with the above responsibilities will likely result in the immediate removal of the advisor and will require a replacement prior to resuming the live hearing. In such cases, advisor replacements will likely require a delay in the live hearing proceedings.

Appendix D: Related New Hampshire Legal Definitions

Sexual Assault:

New Hampshire RSA 632-A establishes three categories of sexual assault and related offenses.

1. Aggravated Felonious Sexual Assault (a Class A felony punishable by a fine of $4000 and up to 15 years in prison), includes engaging in "sexual penetration" of another, in pertinent part, under any of the following circumstances:
    i. when the actor overcomes the victim through the actual application of physical force, violence or superior physical strength;
    ii. when the victim is physically helpless to resist;
    iii. when the actor coerces the victim to submit by threatened use of physical violence or superior physical strength on the victim, and the victim believes that the actor has the ability to execute these threats;
    iv. when the actor coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim believes that the actor has the ability to execute these threats in the future;
    v. when the victim submits under circumstances involving false imprisonment, kidnapping or extortion;
    vi. when the actor, without the prior knowledge or consent of the victim, administers or has knowledge of another person administering to the victim any intoxicating substance which mentally incapacitates the victim;
    vii. when the actor provides therapy, medical treatment or examination of the victim and in the course of that therapeutic or treating relationship or within one year of termination of that therapeutic or treating relationship acts in a manner or for purposes which are not professionally recognized as ethical or acceptable or uses this position as such provider to coerce the victim to submit;
    viii. when the victim has a disability that renders him or her incapable of freely arriving at an independent choice as to whether or not to engage in sexual conduct, and the actor knows or has reason to know that the victim has such a disability;
    ix. when the actor through concealment or by the element of surprise is able to cause sexual penetration with the victim before the victim has an adequate chance to flee or resist;
    x. when the victim is 13 years of age or older and under 16 years of age and the actor is a member of the same household as the victim or the actor is related by blood or affinity to the victim;
    xi. when the victim is 13 years of age or older and under 18 years of age and the actor is in a position of authority over the victim and is more than 4 years older than the victim and when the actor is an employee, contractor, or volunteer at a primary or secondary educational institution and the victim is a student and up to 10 months after the student's graduation or departure;
    xii. when the victim is less than 13 years of age;
    xiii. when at the time of the sexual assault, the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act; and
    xiv. when the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances: when the actor has direct supervisory, disciplinary, or other authority authorized by law over, or direct responsibility for maintaining detention of, the victim by virtue of the victim being detained or incarcerated in a correctional institution, the secure psychiatric unit, a juvenile detention facility, or any other setting in which the victim is not free to leave; or when the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation;

See NH RSA 632-A:2.

2. Felonious Sexual Assault: (a Class B felony punishable by a fine of $4000 and up to 7 years imprisonment), includes, in part, "sexual contact," (intentional touching, reasonably construed as being for purposes of sexual arousal or gratification) and;
   - causes serious personal injury to the victim under any of the circumstances named in RSA 632-A;2;
   - engages in sexual penetration with a person who is 13 years of age or older and under 16 years of age where the age difference between the actor and the other person is 4 years or more; or
   - engages in sexual contact with a person under 13 years of age;
   - engages in sexual contact with a person when the actor is in a position of authority over the victim and is more than 4 years older than the victim;
   - when the actor is an employee, contractor, or volunteer at a primary or secondary education institution and the victim is a student and up to 10 months after the student's graduation or departure;
   - engages in sexual contact with the person, or causes the person to engage in sexual contact on himself or herself in the presence of the actor, when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances: when the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or when the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

See NH RSA 632-A:3.

3. Sexual Assault: (a Class A misdemeanor punishable by a fine of $2000 and up to one year imprisonment), includes, in part, "sexual contact" (intentional touching, reasonably construed as being for the purposes of sexual arousal or gratification):
   - When the actor subjects another person who is 13 years of age or older to sexual contact under any of the circumstances named in RSA 632-A:2;
   - when an actor subjects another person who is 13 years of age or older and under 16 years of age to sexual contact where the age difference between the actor and the other person is 5 years or more;
   - In the absence of any of the circumstances set forth in RSA 632-AL2, when the actor engages in sexual penetration with a person who is 13 years of age or older and under 16 years of age where the age difference between the actor and the other person is r years or less.

See NH RSA 623-A:4 http://www.gencourt.state.nh.us/rsa/html/LXII/632-A/632-A-2.htm

Domestic Violence:
New Hampshire RSA 173-B:1 defines Domestic Violence as a commission or attempted commission of one or more of the acts described in subparagraphs (a) through (g) by a family or household member or by a current or former sexual or intimate partner, where such conduct is determined to constitute a credible present threat to the petitioner's safety. The court may consider evidence of such acts, regardless of their proximity in time to the filing of the petition, which, in combination with recent conduct, reflects an ongoing pattern of behavior, which reasonably causes or has caused the petitioner to fear for his or her safety or well-being:

a. Assault or reckless conduct as defined in RSA 631:1 through RSA 631:3
b. Criminal threatening as defined in RSA 631:4
c. Sexual assault as defined in RSA 632-A:2 through RSA 632-A:5
d. Interference with freedom as defined in RSA 633:1 through RSA 633:3-a
e. Destruction of property as defined in RSA 634:1 and RSA 634:2
f. Unauthorized entry as defined in RSA 635:1 and RSA 635:2
g. Harassment as defined in RSA 644:4
h. Cruelty to animals as defined in RSA 644:8

http://gencourt.state.nh.us/rsa/html/XII/173-B/173-B-1.htm

Stalking:
New Hampshire RSA 633:3 states a person commits the offense of stalking if such person:

1. purposely, knowingly, or recklessly engages in a course of conduct targeted at a specific person which would cause a reasonable person to fear for his or her personal safety or the safety of a member of that person's immediate family, and the person is actually placed in such fear;
2. Purposely or knowingly engages in a course of conduct targeted at a specific individual, which the actor knows will place that individual in fear for his or her personal safety or the safety of a member of that individual's immediate family; or
3. After being served with, or otherwise provided notice of, a protective order that prohibits contact with a specific individual, purposely, knowingly, or recklessly engages in a single act of conduct that both violates the provisions of the order.

"Course of conduct'' means two or more acts over a period of time, however short, which evidences a continuity of purpose. A course of conduct shall not include constitutionally protected activity, nor shall it include conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct may include, but not be limited to, any of the following acts or a combination thereof:

1. Threatening the safety of the targeted person or an immediate family member;
2. Following, approaching, or confronting that person or a member of that person's immediate family;
3. Appearing in close proximity to or entering the person's residence, place of employment, school, or other place where the person can be found, or the residence, place of employment, or school of a member of that person's immediate family;
4. Causing damage to the person's residence or property or that of a member of the person's immediate family;
5. Placing an object on the person's property, either directly or through a third person, or that of an immediate family member;

6. Causing injury to that person's pet or to a pet belonging to a member of that person's immediate family;
7. Any act of communication as defined in RSA 644:4, II
   "Immediate family'' means father, mother, stepparent, child, stepchild, sibling, spouse, or grandparent of the targeted person, any person residing in the household of the targeted person, or any person involved in an intimate relationship with the targeted person.

http://www.gencourt.state.nh.us/rsa/html/LXII/633/633-3-a.htm

Violation of Privacy [This statute is also known as New Hampshire's "revenge porn" law.]
New Hampshire RSA 644.9 states a person is in violation of this statute if such person:

1. unlawfully and without the consent of the persons entitled to privacy therein, installs or uses:
   a. any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of a person including the genitalia, buttocks, or female breasts, or a person's body underneath that person's clothing; or
   b. in any private place, any device for the purpose of observing, photographing, recording, amplifying or broadcasting, or in any way transmitting images or sounds in such place; or
   c. outside a private place, any device for the purpose of hearing, recording, amplifying, broadcasting, observing, or in any way transmitting images, location, movement, or sounds originating in such place which would not ordinarily be audible, visible, or comprehensible outside such place.

   *As used in this section, "private place" means a place where one may reasonably expect to be safe from surveillance including public restrooms, locker rooms, the interior of one's dwelling place, or any place where a person's private body parts including genitalia, buttocks, or female breasts may be exposed.
2. knowingly disseminates or causes the dissemination of any photograph or video recording of himself or herself engaging in sexual activity with another person without the express consent of the other person or persons who appear in the photograph or videotape. In this paragraph, "disseminate" and "sexual activity" shall have the same meaning as in RSA 649-A:2.
3. for the purpose of arousing or gratifying the person's sexual desire, he or she knowingly views another person, without that person's knowledge or consent, in a place where one would have a reasonable expectation of privacy. *For purposes of this paragraph, "views" means looking at another person with the unaided eye or any device intended to improve visual acuity.
4. knowingly enters any residential curtilage, as defined in RSA 627:9, I, or any other private place as defined in paragraph II of this section, without lawful authority and looks into the residential structure thereon or other private place with no legitimate purpose.

Appendix E: Parental, Family, or Marital Status; Pregnancy or Related Conditions

Colby-Sawyer College will not adopt or implement any policy, practice, or procedure concerning a student's current, potential, or past parental, family, or marital status that treats students differently on the basis of sex.

Pregnancy or Related Conditions

Nondiscrimination: Colby-Sawyer College does not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. Colby-Sawyer does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity provided the college ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

Responsibility to Provide Title IX Coordinator Contact Information: When a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX coordinator has been notified, the employee must promptly provide that person with the Title IX coordinator's contact information and inform that person that the Title IX coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the college's education program or activity.

Specific Actions to Prevent Discrimination and Ensure Equal Access: Colby-Sawyer College will take specific actions as noted in this policy and these grievance procedures to promptly and effectively prevent sex discrimination and ensure equal access to the college's education program or activity once the student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. The Title IX Coordinator must coordinate these actions.

Responsibility to Provide Information about Colby-Sawyer College's Obligations: Colby-Sawyer College will inform the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of the college's obligations under Title IX and provide the college's notice of nondiscrimination.

Reasonable Modifications

Colby-Sawyer College will make reasonable modifications to its policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the college's education program or activity. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required, the Title IX coordinator will consult with the student. A modification that would fundamentally alter the nature of the college's education program or activity is not a reasonable modification.

The student has discretion to accept or decline each reasonable modification offered by the Title IX coordinator. If a student accepts an offered reasonable modification, the college will implement it. Reasonable modifications may include, but are not limited to:

- breaks during class to express breast milk, breastfeed, or attend to health needs associated

with pregnancy or related conditions, including eating, drinking, or using the restroom;
- intermittent absences to attend medical appointments;
- access to online or homebound education;
- changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations;
- allowing the student to sit or stand, or carry or keep water nearby;
- counseling;
- changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or
- other changes to policies, practices, or procedures.

Voluntary Access to Separate and Comparable Portion of Program or Activity: Colby-Sawyer College will allow the student to voluntarily access any separate and comparable portion of the college's education program or activity.

Voluntary Leaves of Absence: Colby-Sawyer College will allow the student to voluntarily take a leave of absence from the college's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. When the student returns to Colby-Sawyer College, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

Lactation Space: Colby-Sawyer College will ensure that the student can access a lactation space, which will be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

Supporting Documentation

Colby-Sawyer College will not require supporting documentation unless the documentation is necessary and reasonable for the recipient to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action is obvious, such as:

- when a student who is pregnant needs a bigger uniform;
- when the student has previously provided the recipient with sufficient supporting documentation;
- when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom;
- when the student has lactation needs; or
- when the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

The college will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the college's class, program, or extracurricular activity unless:

- the certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;

- the college requires such certification of all students participating in the class, program, or extracurricular activity; and
- the information obtained is not used as a basis for discrimination.

Comparable Treatment to Other Temporary Medical Conditions

Colby-Sawyer College will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the college administers, operates, offers, or participates in with respect to students admitted to the college's education program or activity.