

**HAMPSHIRE COLLEGE**  
**TITLE IX POLICY AND**  
**GRIEVANCE PROCEDURES**

Effective: August 1, 2024<sup>1</sup>

**I. Statement of Policy**

All Hampshire College (“Hampshire College” or the “College”) community members have the right to personal and sexual safety, respect, integrity and freedom of expression, as long as such expression does not cause harm to others. The College seeks to maintain a safe learning, living, and working environment. To that end, the College and this Policy prohibit Sex Discrimination, including Sexual Harassment (as defined in this Policy). Sex Discrimination is unlawful, undermines the character and purpose of the College, and will not be tolerated. Sex Discrimination is a subset of the behaviors prohibited for students under the Hampshire College Student Handbook and for employees under the Employee Policy Manual and the Faculty Handbook.

This Policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This Policy is intended to define community expectations and to establish a mechanism for responding when those expectations have been violated. Violations of this Policy will be addressed by the accompanying Grievance Procedures.

Hampshire College adopts this Policy with a commitment to: (1) eliminating, preventing, and addressing the effects of Sex Discrimination; (2) fostering a community of trust in which Sex Discrimination is not tolerated; (3) cultivating a climate where all individuals are well-informed and supported in reporting Sex Discrimination; (4) providing a fair and impartial process for all parties pursuant to this Policy and its Grievance Procedures, and (5) identifying the standards by which violations of this Policy will be evaluated and disciplinary action may be imposed.

This policy defines Sex Discrimination; outlines available resources and reporting options available to students and employees; and references the applicable informal resolution, investigative, and disciplinary procedures (the “Grievance Procedures”). Hampshire College will respond to reports of Sex Discrimination and will take prompt action to eliminate such conduct, prevent its recurrence, and remedy any adverse effects in the College’s education programs and activities, including, as appropriate, by way of the Grievance Procedures outlined below. The College also conducts prevention, awareness, and training programs for students and employees to facilitate the goals of this Policy.

This Policy is designed to comply with applicable legal requirements including Title IX of the Education Amendments of 1972 (“Title IX”); relevant provisions of the Violence Against Women Reauthorization Act of 2013 (“VAWA”); Title VII of the Civil Rights Act of 1964

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<sup>1</sup> This Title IX Policy and Grievance Procedures is effective on August 1, 2024. It replaces, in its entirety, the Sexual Misconduct, Relationship Violence and Stalking Policy (and Appendix A and Appendix B), the Title IX Grievance Policy, and all other policies and procedures regarding conduct prohibited by Title IX. These conflicting policies do not apply to conduct that occurred on or after August 1, 2024, but may apply to conduct that occurred prior to August 1, 2024, in accordance with the terms of such policies.

(“Title VII”); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”); the Massachusetts Campus Sexual Assault Law, and other applicable federal and state laws.

Where alleged Sex Discrimination violates this Policy and also violates any other College policies, the College’s response will be governed by this Title IX Policy and Grievance Procedures unless otherwise determined by the Title IX Coordinator.

## **II. Scope**

This Policy applies to any member(s) of the Hampshire College community—Hampshire College students who are enrolled for credit- or non-credit-bearing coursework at Hampshire College (“Students”); Hampshire College employees working at Hampshire College, including all full-time and part-time faculty, staff, and administrators (including adjuncts and casuals) (“Employees”); and contractors, vendors, visitors, guests, or other third parties (“Third Parties”) — who are participating in or attempting to participate in Hampshire College’s education programs or activities.<sup>2</sup>

This Policy also applies to Five College Consortium Students (non-Hampshire students taking courses at Hampshire College through the Five College Consortium) and Five College Shared Employees who work at Hampshire College. For the purposes of this Policy, reports and complaints against Five College Consortium Student Respondents will typically be resolved by the applicable policy and grievance procedure of the institution where Respondent is enrolled (the “home institution”). Five College Consortium Employee Respondents are typically treated as Employees, although the nature of their contractual relationship with Hampshire College may vary. For more information about this Policy’s applicability to Five College Consortium Students and Five Colleges Shared Employees, see Appendix A.

Prohibited Conduct, as defined below, may violate this Policy when it occurs:

- On campus;
- On other property owned or controlled by Hampshire College;
- In the context of Hampshire College’s education programs or activities, including but not limited to employment, classes, Hampshire College-sponsored study abroad programs, research, and online;
- While off-campus when participating in Hampshire College programs, activities, or events;
- On the premises or property of a Five Colleges Consortium campus and is committed by a Hampshire College Student or Employee; or
- Outside these contexts, if the conduct allegedly creates a hostile environment pursuant to this Policy on campus or on other property owned or controlled by Hampshire College.

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<sup>2</sup> If Respondent is both a Hampshire Student and Employee, the Respondent will be considered a Student for the purposes of this Policy if (a) the Student’s primary status is an enrolled student, and (b) the Student is not enrolled as a benefit of their own employment at Hampshire College. Where there is a question as to the predominant role of the Respondent, as either a Hampshire Student or Employee, the College’s Title IX Coordinator will determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context of the alleged Sex Discrimination). Further, where Respondent is both a Student and an Employee, the Respondent may be subject to any of the sanctions applicable to Students or Employees if they are found responsible after the conclusion of the Grievance Procedures.

The Grievance Procedures, as detailed below, provide for the prompt and equitable resolution of Complaints of Prohibited Conduct as defined by this Policy.

To the extent that alleged conduct falls outside this Policy, Hampshire College retains authority to investigate and adjudicate such alleged conduct under its other applicable policies and procedures.

### III. Prohibited Conduct

This section outlines the conduct prohibited under this Policy.

- **Sex Discrimination** – Conduct that excludes a person from participation in, denies them the benefits of, or otherwise subjects them to adverse treatment under the College’s education program or activity on the basis of their sex, gender, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.
- **Sex-Based Harassment** – A form of sex discrimination that means sexual harassment and other harassment based on sex, gender, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity that encompasses the following categories of conduct, defined as follows:
  - **Quid Pro Quo Harassment.** An Employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.
  - **Hostile Environment Harassment.** Unwelcome sex-based conduct<sup>3</sup> that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the College’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
    - The degree to which the conduct affected the Complainant’s ability to access the College’s education program or activity;
    - The type, frequency, and duration of the conduct;
    - The parties’ ages, roles within the College’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
    - The location of the conduct and the context in which the conduct occurred; and
    - Other sex-based harassment in the College’s education program or activity.
  - **Sexual Assault.** Any sexual act—including Rape, Sodomy, Sexual Assault with an Object, or Fondling—directed against another person without the consent of

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<sup>3</sup> Sex-based conduct includes any conduct that is based on sex, gender, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

the victim, including instances when the victim is incapable of giving consent; also unlawful sexual intercourse, including Incest and Statutory Rape. The definitions of **Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape** are included in Appendix A and incorporated herein.

- **Dating Violence.** Violence committed by a person:
  - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - Where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship, (2) the type of relationship, and (3) the frequency of interaction between the persons involved in the relationship.

For purposes of this definition, Dating Violence can encompass a broad range of behavior, including, but not limited to, physical or sex-based violence or emotional/psychological abuse and economic abuse in the form of threats, assault, property damage or other violence. Dating Violence affects individuals of all genders, gender identities, gender expressions, and sexual orientations and does not discriminate by racial, social, or economic background.

Emotional/psychological abuse may include a persistent pattern or prolonged climate of dominating or controlling behavior, often involving the use of verbal and non-verbal communication with the intent to harm another person mentally or emotionally, and/or to exert control over another person. Emotional/psychological abuse can include expressive aggression (e.g., name-calling, humiliating); coercive control (e.g., limiting access to transportation, money, friends, and family; excessive monitoring of whereabouts); threats of physical or sex-based violence, control of reproductive or sexual health (e.g., refusal to use birth control; coerced pregnancy termination); exploitation of perpetrator's vulnerability; and presenting false information with intent of making them doubt their own memory or perception (e.g., mind games).

- **Domestic Violence.** Felony or misdemeanor crimes committed by a person who:
  - Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of Massachusetts or a person similarly situated to a spouse of the victim;
  - Is cohabitating or has cohabitated with the victim as a spouse or intimate partner;
  - Shares a child in common with the victim; or
  - Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Massachusetts.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for the person's safety or the safety of others; or
  - Suffer substantial emotional distress.

For purposes of this definition, course of conduct typically means two or more acts including but not limited to unwelcome acts in which Respondent directly, indirectly by any action, method, device, or means, follows, monitors, surveils, threatens, or interferes with a person's property. Substantial emotional distress typically means significant mental suffering or anguish.

Stalking includes "cyber-stalking," a particular form of stalking in which a person uses electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

Examples include but are not limited to:

- Following an individual in close proximity
  - Repetitive verbal or written communications whether on paper or electronic
  - Sending or posting unwelcome messages under another username
- **Sexual Exploitation.** Purposely or knowingly doing any of the following:
    - Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give or deny Consent to sex-based activity;
    - Allowing third parties to observe private sex-based activity, in person from a hidden location (e.g., closet) or through electronic means (e.g., Skype or live-streaming of images), without the Consent of all participants in the sex-based activity;
    - Engaging in voyeurism, e.g., watching private sex-based activity without the Consent of the participants or viewing another person's intimate parts (including genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy;
    - Recording or photographing private sex-based activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without Consent;
    - Disseminating or posting images of private sex-based activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without Consent;
    - Prostituting another person;
    - Knowingly exposing another person to a sexually transmitted infection or virus without the other's knowledge; or
    - Non-consensual and intentional removal of a condom or other form of birth/disease control by a sex partner, sabotage to a condom or other form of birth/disease control by a sexual partner without the other's knowledge or consent, or false representation of the use of a condom or other form of birth/disease control.

- **Retaliation.** Intimidation, threats, coercion, or discrimination against any person by Hampshire College, a Student, or an Employee or other person authorized by the College to provide aid, benefit, or service under the College’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in any proceeding subject to this Policy and Grievance Procedures. Retaliation includes **Peer Retaliation**, which means retaliation by a student against another student.
- **Complicity.** Any act taken with the purpose of aiding, facilitating, promoting or encouraging the commission of Prohibited Conduct under this Policy by another person.
- **Consensual Relationships Prohibited by this Policy.**

Hampshire College is committed to maintaining a safe, healthy, and supportive campus community that holds the education of students as the highest priority. Amorous, dating, romantic, or sexual relationships between College Employees or Third Party Employees and Students, even if consensual, can negatively interfere with the pursuit of learning and the academic environment and the integrity of the institution. Students have a right to an academic, professional, and socially engaging community and such relationships undermine the likelihood of such a community by introducing the possibility or perception of favoritism, abuse of power, and conflict of interest, all of which compromise the ability of Employees and Third-Party Employees to carry out their responsibilities to students and risks undermining the College’s educational mission.

For these reasons, it is strictly prohibited for any College Employee or Third Party Employee to engage in a romantic or sexual relationship, or in any romantic or sexual conduct, with any Student currently enrolled at Hampshire College or taking a class at Hampshire College, including during leave and when the College is not in session.

There may be an instance that there is a pre-existing relationship between an Employee and an individual (or Student and an individual who becomes an Employee), including marriage, and that individual becomes associated with the College as a Student (or Employee). In such instances, the College Employee is asked to disclose the consensual relationship to the College’s Human Resources Office. It is the responsibility of the Senior Director of Human Resources (or their designee), in consultation with the Employee’s supervisor, to take steps to mitigate potential conflicts and protect the educational experience of the Student, and other Students at the College who may be affected by the consensual relationship.

If a College Employee engages in a consensual relationship prohibited by this Policy, the College Employee will be subject to disciplinary action as determined by Human Resources in consultation with the Title IX Coordinator and/or the Employee’s supervisor, as appropriate.

In cases where a consensual sexual or romantic relationship exists between College Employees who hold unequal positions of authority, it is important that the person in the position of greater authority does not exercise any supervisory or evaluative function over the other person in the relationship. Accordingly, if this dynamic exists, the College Employees in the relationship shall notify Human Resources to evaluate the situation and ensure that alternate supervisory or evaluative arrangements are put in place. The College will protect Employee privacy but reserves the right to share information with individuals who may have a need to know about the relationship in order to make alternative supervisory arrangements.

- **Bystander Amnesty.** Bystanders who seek medical assistance on behalf of others will neither be subject to accountability measures nor notation on their educational record for the sole violation of using or possessing a substance themselves, including bystanders who are also assisting the person in need of medical attention, not solely the person placing the call for help. For more information on this process, as applied to Students, please see Hampshire College’s [Amnesty Policy](#).

Other definitions applicable in this Policy and the Grievance Procedures are included in [Appendix A](#).

**IV. Title IX Coordinator(s) and Supportive Measures**

Hampshire College’s Title IX Coordinator coordinates the College’s compliance with Title IX and this Policy, with the assistance and support of Deputy Title IX Coordinators. These individuals may be contacted as follows:

<b>Interim Title IX Coordinator</b>	<b>Amy Fabiano</b> Remote 508.926.3395 <a href="mailto:afsa@hampshire.edu">afsa@hampshire.edu</a> <a href="mailto:titleix@hampshire.edu">titleix@hampshire.edu</a>
<b>Deputy Title IX Coordinator</b>	<b>Amanda Surgen</b> , Associate Director of Outdoor Programs, Recreation and Athletics (OPRA) Robert Crown Center • Hampshire College • Amherst, MA 01002 413.559.5754 <a href="mailto:aksOP@hampshire.edu">aksOP@hampshire.edu</a>
<b>Deputy Title IX Coordinator</b>	<b>Carolyn Strycharz</b> , Director of Student Affairs - Student Wellness & Divisional Projects Merrill Student Life Center, 2nd Floor • Hampshire College • Amherst, MA 01002 413.559.5746 <a href="mailto:cstrycharz@hampshire.edu">cstrycharz@hampshire.edu</a>

Because the Title IX Coordinator may designate any qualified person to assume or assist in performing the Title IX Coordinator’s duties under the Policy, where this Policy identifies a

specific role of the Title IX Coordinator, such provision should be read with the understanding that the role may be performed by any of the Title IX Coordinator's designees.

Among the Title IX Coordinator's responsibilities is coordinating **Supportive Measures**. Supportive Measures may be provided even when no Complaint has been filed.

Supportive Measures may vary depending on what resources are reasonably available. Supportive Measures must not unreasonably burden any party, and the Supportive Measures may conclude or continue after conclusion of the Grievance Procedures or informal resolution, as appropriate.

Examples of possible Supportive Measures include:

- Counseling
- Extensions of deadlines and other course-related adjustments
- Increased security and monitoring of certain areas of campus
- No Contact Directive (Intentional Avoidance Notice)
- Leaves of absence
- Changes in class, work, housing, extracurricular, or any other activity, regardless of whether there is a comparable alternative
- Training and education programs related to sex-based harassment

The Title IX Coordinator will work with the individual in arranging for Supportive Measures, as appropriate. Hampshire College will not disclose information about any Supportive Measure(s) to persons other than the individual(s) to whom they apply, unless necessary to provide the Supportive Measure(s) or restore or preserve access to the College's education program or activity or if any exception described below, applies.

The College will assist Five College Complainants to the extent reasonably practicable and will coordinate efforts with the Title IX Coordinator at Complainant's home institution to provide Supportive Measures to the Five College Complainant. The College does not have the authority to enforce Supportive Measures on other Five College campuses.

If an individual wishes to seek a modification or reversal of the Title IX Coordinator's decision to provide, deny, modify, or terminate any Supportive Measure(s) applicable to them, they may do so by informing the Title IX Coordinator of this request. The Title IX Coordinator will refer any such request to an impartial, trained Employee with the authority to modify or reverse the Title IX Coordinator's decision on such Supportive Measures, if the impartial Employee determines that the Title IX Coordinator's decision was inconsistent with the definition of Supportive Measures in this Policy.

If an individual wishes to seek additional modification or termination of any Supportive Measure(s) applicable to them due to materially changed circumstances, they may do so by informing the Title IX Coordinator of this request.

Individuals with disabilities who need reasonable accommodations for such disabilities under this Policy and the Grievance Procedures are advised to contact the Title IX Coordinator, who may work with the Office of Accessibility Resources and Services ("OARS") to provide any reasonable disability accommodations.



## **V. Employees who are Private Resources**

Certain Hampshire College Employees are designated as Private Resources pursuant to this Policy, Title IX, and Massachusetts law. A list of such positions is provided in Appendix B. Such positions include those to whom a privilege or confidentiality applies under federal or Massachusetts law, as well as certain positions that have been designated by the College as private resources for the purpose of providing services related to sex discrimination.

Private Resources are not required to disclose to the Title IX Coordinator any personally identifying information from reports of sex discrimination they receive from an individual while performing their role as a Private Resource.

Private Resources must explain to any individual who informs them of conduct that reasonably may constitute sex discrimination:

- The Employee's status as a Private Resource pursuant to the Policy.
- How the individual can contact the Title IX Coordinator and how the individual can make a Complaint of Prohibited Conduct under this Policy.
- That the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate informal resolution or an investigation under the Grievance Procedures.

While Private Resources will maintain confidentiality under this Policy and the Grievance Procedures, they may be required to disclose personally identifiable information by law or a court order or when the reporting individual gives written consent for disclosure.

## **VI. Reporting Options**

### **A. Reporting to the College**

Hampshire College strongly encourages any individual who has experienced, observed, or has knowledge of Prohibited Conduct to report to the Title IX Coordinator. Reporting conduct that may constitute Prohibited Conduct to the Title IX Coordinator does not necessarily require participating in any subsequent proceedings, including the Grievance Procedures, nor is such participation required for an individual to request and receive Supportive Measures.

Reports of Prohibited Conduct may be brought to Hampshire College by contacting any of the following:

- **Title IX Coordinator**
- **Deputy Title IX Coordinators**
- **Hampshire College Campus Safety and Wellbeing**

Individuals who would like to submit an anonymous report can do so by clicking [HERE](#).

The Title IX Coordinator will address an anonymous report of conduct that reasonably may constitute Prohibited Conduct pursuant to this Policy to the extent reasonably possible. However, the ability of the College to conduct an effective inquiry into and take action concerning an anonymous report may be significantly limited. Requests for investigation and determination as to violation(s) of this Policy may not be made anonymously.

As set forth below, College Employees may not make anonymous reports about conduct involving others that reasonably may constitute sex discrimination pursuant to this Policy. All such information must be provided to the Title IX Coordinator.

Public awareness events in which experiences of sex-based harassment are disclosed do not constitute reports to Hampshire College under this Policy, unless such sex-based harassment involves an imminent or serious threat to the health or safety of a person.

## **B. Reporting to Law Enforcement**

Individuals have the right to notify or decline to notify law enforcement concerning an alleged incident of Prohibited Conduct under this Policy which may be criminal in nature, and individuals may receive assistance from the Title IX Coordinator in doing so. Under limited circumstances that pose a health or safety threat to the College community, Hampshire College may independently notify law enforcement of the alleged incident(s).

Any person wishing to pursue criminal action in addition to, or instead of, reporting to College may do so by contacting:

**Emergencies:** 911

### **Hampshire College Campus Safety and Wellbeing**

Location: Basement of Library / Ground Floor, Merrill Building

Phone: 413-559-5424 or 413-559-5555 (emergencies)      Email: [csw@hampshire.edu](mailto:csw@hampshire.edu)

### **Local Police Departments**

Amherst Police Department

Location: 111 Main Street, Amherst, MA 01002

Phone: 413-259-3000

Hadley Police Department

Location: 15 East Street, Hadley, MA 01035

Phone: 413-584-0883

### **State Police Department**

Massachusetts State Police

General Headquarters

470 Worcester Road, Framingham, MA 01702

Phone: 508-820-2300

The law enforcement contacts above encourage anyone reporting to law enforcement to take steps to preserve evidence.

A criminal investigation into any matter does not preclude the College from implementing this Policy and its Grievance Procedures. However, the College may reasonably and temporarily delay its Grievance Procedures when there is an ongoing concurrent law enforcement proceeding.

Neither the result(s) of a law enforcement investigation nor the decision of law enforcement to investigate or decline to investigate any reported incident(s) is determinative as to whether Prohibited Conduct has occurred for the purposes of this Policy and the Grievance Procedures.

Individuals are encouraged to report to the Title IX Coordinator or Campus Safety and Wellbeing regarding any protective order issued under state or federal law. The Title IX Coordinator will respond promptly and effectively to such information, including notifying Campus Safety and Wellbeing.

### **C. Historical Reports and Complaints of Sex Discrimination**

The College want to ensure that it is treating our entire campus community with respect. That includes listening and responding to community members who raise concerns about past sex discrimination connected with the College even if the College is limited in our ability to take direct action based on the passage of time or a lack of current authority over the individuals involved.

The College will document concerns and proceed according to the applicable policy and procedures when it receives reports or complaints from alumni or former Employees related to incidents that happened while they were participating or attempting to participate in College programs or activities, regardless of the length of time since the incident or whether the person who allegedly engaged in Prohibited Conduct is still affiliated with the College. Any College Employee who receives such a report or complaint is required to report it to the College's Title IX Coordinator.

The College will attempt to identify the policy and procedures relevant to the alleged Prohibited Conduct that may have been in place when the alleged conduct occurred. Consistent with the procedures set forth in that policy, the College will consider Complainant's stated wishes, the current status of Respondent, and the goals of the policy in evaluating how to proceed.

It is important to understand that the College's ability to respond and take action may diminish over time, as memories may have faded or evidence may no longer be available. Nonetheless, in all instances, the College will seek to determine if there are alternative actions, consistent with Complainant's request, which may be necessary or appropriate to eliminate, prevent, address, or redress any continuing conduct or remedy past harms.

### **D. Other Resources**

On-campus and off-campus resources related to counseling, medical treatment, police, and other support are compiled in [Appendix B](#).

## **VII. Employee Responsibilities**

All Hampshire College Employees, with the exception of those designated as Private Resources above, must disclose to the Title IX Coordinator when the Employee has information about conduct that may reasonably constitute Prohibited Conduct pursuant to this Policy.

If a Student-Employee while performing employment duties or otherwise in the course of their employment receives information regarding conduct that may reasonably constitute Prohibited

Conduct pursuant to this Policy, that Student-Employee must likewise disclose the same to the Title IX Coordinator.

This disclosure requirement does not apply to an Employee who personally has been subject to conduct that may reasonably constitute Prohibited Conduct pursuant to this Policy.

### **VIII. Privacy**

Hampshire College is committed to protecting the privacy of all involved in responding to a report of Prohibited Conduct pursuant to this Policy and applicable law and will take steps to limit the disclosure of information to only those individuals who have a need to know in order to implement this Policy and the Grievance Procedures. Additional information with respect to privacy expectations during the Grievance Procedures may be found below.

The College will not disclose personally identifiable information obtained in the course of coordinating actions under this Policy, applying the Grievance Procedures, or otherwise complying with Title IX, except in the following circumstances:

- When the College has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the roles and responsibilities set forth by this Policy, including actions taken to address conduct that reasonably may constitute sex discrimination under Title IX in the College's education program or activity;
- As required by federal law, federal regulations, or the terms and conditions of a federal award, including a grant award or other funding agreement; and/or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by state or local law, or when permitted under the Family Educational Rights & Privacy Act (FERPA).

### **IX. Informal Resolution**

Either party may request an informal resolution process at any time for an incident of Prohibited Conduct under this Policy before a determination is made under the Grievance Procedures.

Parties may also request an informal resolution process in the absence of a Complaint or without initiating the Grievance Procedures.

Informal resolution, if approved by the Title IX Coordinator, takes place in lieu of resolving a Complaint through the Grievance Procedures below. The Title IX Coordinator may decline to allow the informal resolution process in any matter despite the parties' wishes. The Title IX Coordinator will not approve informal resolution when such process would conflict with federal, state, or local law.

Before initiating the informal resolution process, the Title IX Coordinator will provide the parties with written notice that explains:

- The allegation(s);
- The requirements of the informal resolution process;

- That, prior to agreeing to a resolution under the informal resolution process, any party has the right to withdraw from the informal resolution process and to initiate or resume the Grievance Procedures;
- That the parties' agreement to a resolution at the conclusion of the informal resolution process precludes the parties from initiating or resuming Grievance Procedures with respect to the resolved allegation(s);
- The potential terms that may be requested or offered in an informal resolution agreement, including that an informal resolution agreement is binding only on the parties; and
- What information the College will maintain and whether and how such information may be used in connection with the initiation or resumption of the Grievance Procedures.

If both parties voluntarily consent to the informal resolution process, and the Title IX Coordinator approves, the Title IX Coordinator will assign an informal resolution facilitator. The informal resolution facilitator will be trained, as appropriate, including as to how to serve impartially and avoid conflicts of interest and bias. The informal resolution facilitator will not be the same person as the investigator or decisionmaker if the Grievance Procedures are initiated.

Any individual who would like further information about the College's informal resolution process may contact the Title IX Coordinator directly at any time.

## **X. Grievance Procedures**

These Grievance Procedures will apply to resolve Complaints of Prohibited Conduct under this Policy.

In implementing these Grievance Procedures, Hampshire College will treat Complainant and Respondent equitably. The College will take reasonable steps to protect the privacy of the parties and witnesses during all stages of the Grievance Procedures. Such steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; to consult with their family members, Private Resources, or advisors; or to otherwise prepare for or participate in these Grievance Procedures. Knowingly making false statements and/or knowingly submitting false information during the Grievance Procedures process is prohibited by this Policy and may violate other applicable Hampshire College policies and procedures.

### **A. Evaluation, Dismissal, and Notice of Allegations**

#### **1. Making a Complaint**

The following individuals have the right to make a Complaint of Prohibited Conduct (other than sex-based harassment) under this Policy:

- A Hampshire College Student or Employee, including those who have been subjected to conduct that could constitute Prohibited Conduct under this Policy.
- Any third party who was participating or attempting to participate in the College's education program or activity at the time of the alleged Prohibited Conduct, including those who have been subjected to conduct that could constitute Prohibited Conduct under this Policy.
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of Complainant.
- The College's Title IX Coordinator, as provided below.

The following individuals have the right to make a Complaint of sex-based harassment, which includes Sexual Assault, Dating Violence Domestic Violence, and Stalking, under this Policy:

- A Hampshire College Student or Employee only if they themselves are alleged to have been subjected to sex-based harassment under this Policy.
- A person other than a College Student or Employee only if they themselves are alleged to have been subjected to sex-based harassment under this Policy at a time when they were participating or attempting to participate in the College's education program or activity.
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of Complainant.
- The College's Title IX Coordinator, as provided below.

The Title IX Coordinator may initiate a Complaint only after considering the following factors:

- Any request by Complainant not to proceed with initiation of a Complaint;
- Any reasonable safety concerns that Complainant has regarding initiation of a Complaint;
- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether the conduct alleged, if established, would require the removal of Respondent(s) from campus or imposition of another disciplinary sanction to end the Prohibited Conduct and prevent its recurrence;
- The age and relationship of the parties, including whether Respondent is a Hampshire College Employee;
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Prohibited Conduct occurred; and
- Whether the College could end the alleged Prohibited Conduct and prevent its recurrence without initiating the Grievance Procedures.

If, after considering these and any other relevant factors, the Title IX Coordinator determines that the alleged conduct (1) presents an imminent and serious threat to the health or safety of Complainant or another person, or (2) prevents the College from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint. The Title IX Coordinator will notify Complainant prior to initiating such a Complaint and will appropriately address any reasonable concerns about Complainant's safety or the safety of others, including by providing Supportive Measures.

Hampshire College may consolidate Complaints of Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable.

## **2. Dismissal**

The Title IX Coordinator may dismiss a Complaint if:

- Hampshire College is unable to identify any Respondent after taking reasonable steps to do so;
- Respondent is not participating in Hampshire College educational program or activity and is not employed by the College;
- Complainant voluntarily withdraws any or all of the allegations in the Complaint in writing, the Title IX Coordinator declines to initiate a Complaint as described above, and the Title IX Coordinator determines that, without Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Prohibited Conduct under the Policy even if proven; and/or
- Hampshire College determines that the conduct alleged in the Complaint, even if proven, would not constitute Prohibited Conduct under the Policy.

Before dismissing a Complaint, the Title IX Coordinator will make reasonable efforts to clarify the allegations with Complainant.

Upon dismissal, the Title IX Coordinator will promptly notify Complainant in writing of the basis for the dismissal. If the dismissal occurs after Respondent has received notice of the allegations, as described below, then the Title IX Coordinator will notify the parties simultaneously in writing.

Title IX Coordinator will notify Complainant that a dismissal may be appealed to the Appeals Officer designated by the Title IX Coordinator on the bases outlined below. If the dismissal occurs after Respondent has received notice of the allegations, as described below, then the Title IX Coordinator will notify the parties simultaneously in writing that the dismissal may be appealed on the same bases. If a dismissal is appealed, Hampshire College will follow the procedures outlined below.

When a Complaint is dismissed, the Title IX Coordinator will:

- Offer Supportive Measures to Complainant, as appropriate;
- If Respondent has received notice of the allegations, offer Supportive Measures to Respondent, as appropriate; and
- Take other prompt and effective steps, as appropriate, to ensure that Prohibited Conduct does not continue or recur within the College's education program or activity.

### **3. Notice**

If the Title IX Coordinator has determined, following an evaluation, that initiation of the Grievance Procedures is appropriate, the Title IX Coordinator will provide the following notice to the parties in writing with sufficient time for the parties to prepare a response before any initial interview.

The written notice will include:

- This Policy and the Grievance Procedures, including the informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the alleged incident(s), the conduct alleged to constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
- A statement that retaliation is prohibited;

- A statement that Respondent is presumed not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of the Grievance Procedures based on the preponderance of the evidence. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial investigator and, if applicable, a decisionmaker;
- A statement that the parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- A statement regarding prohibitions on knowingly making false statements or knowingly submitting false information during the Grievance Procedures, and that doing so may violate other applicable Hampshire College policies and procedures; and
- A statement that the parties are entitled to an investigative report that accurately summarizes the relevant and not otherwise impermissible evidence and equal opportunity to access the underlying relevant and otherwise not impermissible evidence.

If, during an investigation, the College decides to investigate any additional allegation(s) of Prohibited Conduct by Respondent towards Complainant that were not included in the initial notice described above or that are included in a consolidated Complaint, the College will provide written notice of the additional allegation(s) to the parties.

If the College has reasonable concerns about the safety of any person as a result of providing the notice described above, the College may reasonably delay providing notice in order to first address such safety concern(s) appropriately.

## **B. Investigation**

The Title IX Coordinator is responsible for overseeing any investigation pursuant to this Policy and the Grievance Procedures and will be the primary point of contact for the parties during the Grievance Procedures. The Title IX Coordinator, upon the issuance of written notice described above will refer the Complaint for investigation and appoint an investigator who may be the Title IX Coordinator, a Deputy Title IX Coordinator, Hampshire Employee, or other investigator. If needed, the investigator may be assisted in conducting investigation functions by additional qualified individuals.

The College will provide for adequate, reliable, and impartial investigations and, if applicable, adjudications of Complaints. The burden is on the College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred.

The College will provide written notice to a party whose participation is invited or expected, of the date, time, location, participants, and purpose of all meetings or proceedings—including investigatory interviews—with sufficient time for the party to prepare to participate. The College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The College will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The advisor may review evidence and consult with the party but may not speak on behalf of the party during such meeting or proceeding.

During the investigation, the investigator will collect information from the parties and any witnesses, as appropriate. The parties will have an equal opportunity to present fact witnesses



and any evidence that is relevant and not otherwise impermissible for the investigator to consider.

The investigator will review all evidence gathered during the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Generally, evidence attesting to a party's character is not considered relevant.

The following types of evidence are impermissible:

- Evidence that is protected under a federal or state law privilege or evidence provided to a Private Resource while such Employee was acting in their capacity as a Private Resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless that party or witness provides voluntary, written consent for use in the for use in the Grievance Procedures.
- Evidence that relates to Complainant's sexual interests or prior sexual conduct, unless evidence about Complainant's prior sexual conduct is offered to prove that someone other than Respondent committed the alleged Prohibited Conduct or is evidence about specific incidents of Complainant's prior sexual conduct with Respondent that is offered to prove consent to alleged sex-based harassment, including Sexual Assault. Prior consensual sexual conduct between the parties does not by itself demonstrate or imply Complainant's consent to alleged sex-based harassment or preclude determination that sex-based harassment occurred.

At the conclusion of an investigation, the College will provide each party and the party's advisor, if any, with the investigative report and an equal opportunity to access evidence that is relevant to the allegation(s) and not otherwise impermissible. Each party will be provided ten (10) business days to review the investigative report and evidence and may submit a written response within that timeframe, if they so choose.

The College prohibits the parties' and their advisors' from disclosing information and evidence obtained solely through the Grievance Procedures, including any investigative report, in an unauthorized manner and such disclosure may violate other applicable Hampshire College policies and procedures.

### **C. Determination**

For all Complaints, the College will provide a process that allows the investigator or decisionmaker, as applicable, to question the parties and witnesses to adequately assess a party's or witness's credibility to the extent that credibility is both in dispute and relevant to evaluating one or more allegations of Prohibited Conduct in the Complaint.

#### **1. Sex-Based Harassment Complaints Involving a Student Party**

For Complaints of Sex-Based Harassment, including Sexual Assault, Dating Violence, Domestic Violence and Stalking, involving a student party, the Title IX Coordinator will schedule a live hearing no sooner than ten (10) business days after the parties have received the investigative

report and an equal opportunity to access evidence that is relevant to the allegation(s) and not otherwise impermissible. Notice of the hearing will be provided in writing.

The live hearing will be conducted by a fair and impartial Hearing Chair or Hearing Panel (also referred to as the “decisionmaker”), any of whom may or may not be the investigator. If a Hearing Panel is used, a majority of the Hearing Panel will constitute the decisionmaker for each matter. As the decisionmaker, the Hearing Chair or Hearing Panel (as applicable) will determine, based on the preponderance of the evidence, whether or not the alleged Sex-Based Harassment occurred. All members of the Hearing Panel and any Hearing Chair will have received appropriate training to participate in the hearing.

Only the Hearing Panel or Hearing Chair, as applicable, will question the parties and any witnesses during the hearing; direct questioning of the parties or witnesses by the parties or their advisors is not permitted. The parties may propose in writing to the Hearing Panel or Hearing Chair, as applicable, any relevant and not otherwise impermissible questions and follow-up questions that they want asked of any other party and witnesses, including questions challenging credibility. The Hearing Panel or Hearing Chair, as applicable, will determine whether a proposed question or follow-up question is relevant and not otherwise impermissible and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of a party or witness being questioned will not be permitted. Questions seeking evidence that is already before the Hearing Panel or Hearing Chair, as applicable, are not relevant and will not be permitted. The Hearing Panel or Hearing Chair, as applicable, will give a party an opportunity to clarify or revise their question if the Hearing Panel or Hearing Chair, as applicable, determines it is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

The Hearing Panel or Hearing Chair, as applicable, may choose to place less or no weight on statements made by a party or witness who refuses to respond at the hearing to questions deemed relevant and not impermissible. The Hearing Panel or Hearing Chair, as applicable, will not draw an inference about whether Sex-Based Harassment occurred based solely on a party’s or witness’s refusal to respond to questioning.

The hearing will be conducted with the parties physically present in separate locations with technology enabling the Hearing Panel or Hearing Chair, as applicable, and the parties to simultaneously see and hear the party or witness while that person is speaking. The College will record the hearing and make the recording available to the parties for review upon request. All other recording of the hearing is unauthorized and strictly prohibited.

The Hearing Panel or Hearing Chair, as applicable, will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as Complainant, Respondent, or witness.

The Hearing Panel or Hearing Chair, as applicable, will use the preponderance of the evidence standard to determine whether Prohibited Conduct occurred. This standard of proof requires the Hearing Panel or Hearing Chair, as applicable, to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Hearing Chair or majority of the Hearing Panel is not persuaded by the preponderance of the evidence that Prohibited Conduct occurred,

the quantity of evidence notwithstanding, the Hearing Chair or Hearing Panel will not determine that Prohibited Conduct has occurred.

Written notice of the decisionmaker's determination will be provided to the parties within seven (7) business days of when the determination was reached. The written notice of determination will include:

- A description of the alleged Prohibited Conduct;
- Information about the policies and procedures that were used to evaluate the allegations;
- The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether Prohibited Conduct has occurred;
- When the decisionmaker finds that Prohibited Conduct has occurred, any disciplinary sanctions the College will impose on Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the College to Complainant, and, to the extent appropriate, other students identified by the Title IX Coordinator to be experiencing the effects of the Prohibited Conduct; and
- The College's procedures and permissible bases for the parties to appeal the determination.

The College will not impose discipline on Respondent for Prohibited Conduct unless there is a determination by the decisionmaker at the conclusion of the hearing that Respondent engaged in Prohibited Conduct.

If there is a determination that Prohibited Conduct occurred, as appropriate, the Title IX Coordinator will:

- Coordinate the provision and implementation of remedies to Complainant and other people that the College identifies as having had equal access to the College's education program or activity limited or denied by the Prohibited Conduct;
- Coordinate the imposition of any disciplinary sanctions on Respondent, including notification to Complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within the College's education program or activity.

The College will comply with these Grievance Procedures before imposition of any disciplinary sanctions against Respondent and will not discipline a party, witness, or others participating in these Grievance Procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether Prohibited Conduct occurred.

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of any appeal taken in accordance with the below or, if there is no appeal, the date on which an appeal would no longer be considered timely.

## **2. All Other Complaints**

For Complaints that allege Sex-Based Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, involving non-student parties or for Complaints that allege Sex Discrimination that is not Sex-Based Harassment, the investigator, as the decisionmaker, will evaluate all relevant and not otherwise impermissible evidence—including both inculpatory and

exculpatory evidence—for its persuasiveness. The investigator, as decisionmaker, will also question the parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of Prohibited Conduct. The investigator's credibility determination(s) will not be based on a person's status as Complainant, Respondent, or witness.

Using the preponderance of the evidence standard, the investigator, as decisionmaker, will determine whether Prohibited Conduct occurred. This standard of proof requires the investigator, as decisionmaker, to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the investigator, as decisionmaker, is not persuaded under the preponderance of the evidence standard that Prohibited Conduct occurred, the quantity of evidence notwithstanding, the investigator will not determine that Prohibited Conduct occurred.

No sooner than ten (10) business days after the parties have received the investigative report and an equal opportunity to access evidence that is relevant to the allegation(s) and not otherwise impermissible, as detailed above, the investigator, as decisionmaker, will make a determination as to whether Prohibited Conduct occurred.

Written notice of the determination will be provided to the parties within seven (7) business days of when the determination was reached. The written notice of determination will include:

- A description of the alleged Prohibited Conduct;
- Information about the policies and procedures that were used to evaluate the allegations;
- The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether Prohibited Conduct has occurred;
- When the decisionmaker finds that Prohibited Conduct has occurred, any disciplinary sanctions the College will impose on Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the College to Complainant, and, to the extent appropriate, other students identified by the Title IX Coordinator to be experiencing the effects of the Prohibited Conduct; and
- The College's procedures and permissible bases for the parties to appeal the determination.

The College will not impose discipline on Respondent for Prohibited Conduct unless there is a determination by the decisionmaker that Respondent engaged in Prohibited Conduct.

If there is a determination that Prohibited Conduct occurred, as appropriate, the Title IX Coordinator will:

- Coordinate the provision and implementation of remedies to Complainant and other people the College identifies as having had equal access to the College's education program or activity limited or denied by the Prohibited Conduct;
- Coordinate the imposition of any disciplinary sanctions on Respondent, including notification to Complainant of any such disciplinary sanctions; and
- Take other appropriate, prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within the College's education program or activity.

Hampshire College will comply with these Grievance Procedures before imposition of any disciplinary sanctions against Respondent and will not discipline a party, witness, or others participating in these Grievance Procedures for making a false statement or for engaging in

consensual sexual conduct based solely on the determination whether Prohibited Conduct occurred.

The determination regarding responsibility becomes final either on the date that [School] provides the parties with the written determination of any appeal taken in accordance the applicable section below or, if there is no appeal, the date on which an appeal would no longer be considered timely.

#### **D. Appeal**

Hampshire College offers the following bases for appeals from the dismissal of a Complaint or a written determination by the decisionmaker that Prohibited Conduct occurred:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; or
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

The appealing party must submit an appeal letter to the Title IX Coordinator within five (5) business days of receiving the dismissal of a Complaint or written determination by the decisionmaker. Appeal procedures will be implemented equally for the parties.

Upon receiving the appeal, the Title IX Coordinator will notify the parties in writing of the appeal by providing:

- Both parties a copy of the appeal
- Providing Respondent a written notice of the allegations if such notice was not previously provided to Respondent, as applicable
- Both parties five (5) business days make a written statement in support of, or challenging, the dismissal of the Complaint or the written determination by the decisionmaker and response to the appeal

The Title IX Coordinator will appoint an Appeal Officer to review the appeal and any written responses. The Appeal Officer will not be the investigator or decisionmaker, the Title IX Coordinator, or the person who dismissed the Complaint (if applicable).

The Appeal Officer will make their determination on the appeal and the Title IX Coordinator will notify the parties in writing of the result of the appeal and the Appeal Officer's rationale for the result. The Appeal Officer's determination on the appeal is final and there is no further appeal permitted by either party.

#### **E. Interim Leave, Disciplinary Sanctions, and Remedies**

During the Grievance Procedures, the College may take the following actions, as applicable:

- The College may remove a Student-Respondent from its education program or activity on an emergency basis after undertaking an individualized safety and risk analysis; determining that an imminent and serious threat to the health or safety of any person(s) arising from the allegation(s) of Prohibited Conduct justifies removal; and providing

Respondent with notice and an opportunity to challenge the decision immediately following the removal.

- The College may place an Employee-Respondent on administrative leave during the pendency of the Grievance Procedures, as appropriate, in consultation with the Human Resources Office

Following a determination under the Grievance Procedures that Prohibited Conduct occurred:

Hampshire College may impose disciplinary sanctions on a Student-Respondent, which may include and are not limited to:

- Deferred Sanction Statuses
- Disciplinary Probation
- Removal from Campus Housing
- Housing Relocation
- Housing Lottery Restriction
- No Contact Directive (Intentional Avoidance Notice)
- Restitution
- Suspension
- Expulsion

Hampshire College may impose disciplinary sanctions on an Employee or Third Party-Respondent, which may include and are not limited to:

- Warning
- Censure
- Education
- Training
- Removal of Privileges
- No Contact Directive (Intentional Avoidance Notice)
- Suspension
- Termination
- Removal from Campus

Hampshire College may also provide remedies to Complainant or any other person, which may include and are not limited to:

- Counseling
- Extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- Increased security and monitoring of certain areas of campus
- No Contact Directive (Intentional Avoidance Notice)
- Leaves of absence
- Changes in class, work, housing, extracurricular, or any other activity, regardless of whether there is a comparable alternative
- Training and education programs related to sex-based harassment

#### **F. General Timeframes**

Hampshire College is committed to responding promptly and effectively to conduct that may constitute Prohibited Conduct in its education program and activity.

The College applies the following general timeframes to the major stages of the Grievance Procedures, excluding any extension(s) of time for good cause:

- Evaluation – 15 business days
- Investigation – 60 business days
- Determination – 30 business days
- Appeal – 15 business days

Reasonable extension(s) of these timeframes may occur on a case-by-case basis for good cause and may be requested by any party. If an extension is granted, the parties will be provided with written notice that includes the reason for any delay. The Title IX Coordinator has discretion over all decisions as to extensions of time.

The unavailability of an advisor or other support person will not significantly delay any interview, meeting, or proceeding under these Grievance Procedures.

### **G. Additional Provisions**

Hampshire College requires the Title IX Coordinator, as well as any investigator, decisionmaker, or facilitator of informal resolution, or Appeal Officer or Appeal Panel to not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

Documents submitted and/or issued in connection with this Policy and the Grievance Procedures—including but not limited to Complaints, notices, investigative reports, evidence, informal resolution agreements, recordings, transcripts, and other information—may not be disclosed or publicized during the Grievance Procedures by parties, witnesses, advisors, or support persons, as applicable, except as otherwise described in this Policy or as required or authorized by law. The Policy prohibits retaliation at all times, including by parties against witnesses.

The College reserves the right to modify this Policy and the Grievance Procedures to take into account applicable legal requirements, to address extraordinary circumstances, and/or as it deems necessary to further the purpose and intent of the Policy.

## Appendix A

The following definitions are provided to further define certain terms in the Title IX Policy and Grievance Procedures.

- **Complaint:** An oral or written request to Hampshire College that objectively can be understood as a request for Hampshire College to investigate and make a determination about alleged discrimination under the Policy and Grievance Procedures. The College recognizes that many individuals may choose to self-identify as a survivor rather than a victim or Complainant. The choice of language for any individual is a personal choice and will be respected by the College. In this Policy, however, the College uses the terms Complainant and Respondent to assure consistency throughout this Policy and with other policies.
- **Complainant:**
  - (1) A Student or Employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination under the Policy and Grievance Procedures; or
  - (2) A person other than a Student or Employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination under the Policy and Grievance Procedures and who was participating or attempting to participate in Hampshire College’s education program or activity at the time of the alleged Sex Discrimination.

Hampshire College, even when the Title IX Coordinator initiates a Complaint pursuant to this Policy, is not a Complainant.

- **Confidential Employee (aka Private Resource):** An Employee:
  - of Hampshire College, whose communications are privileged or confidential under federal or state law; this includes Hampshire Employees designed by the College as Private Resources under Massachusetts law. The Employee’s status as a Private Resource is only with respect to information received while the Employee is functioning within the scope of their duties to which privilege or confidentiality applies;
  - of Hampshire College, whom the College has designated as a Private Resource for the purpose of providing services to persons related to sex discrimination. If such Employee also has a duty not associated with providing those services, the Employee’s status as a Private Resource is only with respect to information received about Sex Discrimination in connection with providing those services; or
  - of Hampshire College or another postsecondary institution, who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex Discrimination—but the Employee’s status as a Private Resource is only with respect to information received while conducting the study.
- **Consent:** For the purposes of this Policy, “consent” means Informed



(knowing), Voluntary (freely given) and Active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sex-based activity. Consent cannot be obtained by force.

Force includes (i) the use of physical violence, (ii) threats, (iii) intimidation, and/or (iv) coercion.

Physical violence means that a person is exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, pushing, restraining, choking, and brandishing or using any weapon.

Threats are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples include threats to harm a person physically, to reveal private information to harm a person's reputation or cause a person academic or economic harm.

Intimidation is an implied threat that menaces or causes reasonable fear in another person. A person's size, alone, does not constitute intimidation; however, a person's size may be used in a way that constitutes intimidation (e.g., blocking access to an exit).

Coercion is the use of an unreasonable amount of pressure to gain sex-based access. Coercion is more than an effort to persuade, entice, or attract another person to engaged in sex-based activity. When a person makes clear a decision not to participate in a particular form of sex-based activity, a decision to stop, or a decision not to go beyond a certain sex-based activity, continued pressure can be coercive. In evaluating whether coercion was used, the College will consider: (i) the nature of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the frequency and duration of the pressure. To constitute coercion, conduct must result in wrongfully impairing another individual's freedom of will to participate in sex-based activity.

Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

The College offers the following guidance on Consent: A person who wants to engage in a specific sex-based activity is responsible for obtaining Consent for that activity. Lack of protest, lack of resistance, and silence and/or passivity do not constitute Consent. Relying solely on non-verbal communication before or during sex-based activity can lead to misunderstanding and may result in a violation of this Policy. It is important to not make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sex-based activity. If confusion or ambiguity arises during sex-based activity, participants should stop and clarify a mutual willingness to continue that activity.

Consent to one form of sex-based activity does not, by itself, constitute Consent to another form of sex-based activity. In addition, Consent to sex-based activity on a prior occasion does not, by itself, constitute Consent to future sex-based activity. In cases of prior or ongoing relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on evaluating the presence of Consent, but any sex-based activity must still be mutually agreed-upon.

Consent may be withdrawn at any time. An individual who seeks to withdraw Consent should communicate, through clear words or actions, a decision to cease the sex-based activity. Once Consent is withdrawn, the sex-based activity must cease immediately.

- **Day:** A business day, unless otherwise specified.
- **Disciplinary sanctions:** Consequences imposed on Respondent following a determination under the Grievance Procedures that Respondent violated the Policy.
- **Education program or activity:** All the operations of Hampshire College.
- **Five College Consortium:** Hampshire College has joined with Smith College, Mount Holyoke College, Amherst College, and the University of Massachusetts Amherst to form the Five College Consortium.

Five College interchange students and shared employees who take classes or work on Hampshire College's campus are subject to the provisions of this Policy, as well as the applicable policies of their home institution.

If Respondent is a Five College interchange student enrolled in a course at Hampshire and the alleged prohibited Conduct occurred at Hampshire College, Hampshire College's disciplinary authority over the Five College interchange student may be limited and it is likely that the policies and procedures of Respondent's home institution will apply. However, Hampshire College may remove the Five College interchange student from the course or prohibit their presence on campus (no trespass), and will take steps to provide remedies for Complainants and others affected, as applicable.

If Respondent is a Five College shared employee working at Hampshire College and the conduct is reported to have occurred at Hampshire College, such Respondents are typically treated as Employees, although the nature of their contractual relationship with Hampshire College may vary and depending on the nature of the contractual relationship the College maintains with Respondent, the College's ability to impose disciplinary action may be limited.

For conduct occurring on another Five Colleges campus, the procedures for investigating and resolving Title IX complaints at that campus or Respondent's home institution (if not Hampshire College) may also apply. The home institution for a Five College shared employee is the institution responsible for processing payroll for the employee.

Complainant may report alleged Sex Discrimination by a Five College interchange student or Five College shared employee to Hampshire's Title IX Coordinator. In response to a report against a Five College interchange student or shared employee for such conduct that reportedly occurred at Hampshire, the Title IX Coordinator in all cases promptly notify the Title IX Coordinator at Respondent's home institution of the report or complaint, as applicable.

Information about the Title IX processes and Title IX Coordinators at the other Five College consortium institutions can be found at the following websites:

- Amherst College, [Civil Rights and Title IX Office](#)
  - Mount Holyoke College, [Title IX Coordinator](#)
  - Smith College, [Title IX Coordinator](#)
  - University of Massachusetts Amherst, [Equal Opportunity & Access Office](#)
- 
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - **Incapacity:** A person who is incapacitated is unable, temporarily or permanently, to give Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. Mentally helpless means a person is incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to communicate willingness or unwillingness to an act. A person may be incapacitated as a result of the consumption of alcohol or other drugs, even where voluntary, or due to a temporary or permanent physical or mental health condition.

Incapacitation is an extreme form of intoxication. Incapacitation can also be caused by certain medical conditions. A person is not necessarily incapacitated merely as a result of ingesting alcohol or other drugs. The impact of alcohol and other drugs varies from person to person; each individual may have a different level of tolerance or metabolism. One is not expected to be a medical expert in assessing incapacitation. Instead, one must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. A person's level of intoxication can change rapidly, and a person can reach incapacitation within a short time span. Although every individual may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"

The introduction of alcohol or other drugs may create ambiguity for all involved as to whether Consent has been sought or given. If one has doubt about either party's level of intoxication, the safe thing to do is to forego all sex-based activity.

Being impaired by alcohol or other drugs is not a defense to any violation of this Policy.

- **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Party:** Complainant or Respondent.
- **Pregnancy or related conditions:**
  - (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
  - (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
  - (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- **Rape (except Statutory Rape):** the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- **Relevant:** Related to the allegations of Sex Discrimination under investigation as part of the Grievance Procedures. A question is relevant when it seeks evidence that may aid in showing whether the alleged Sex Discrimination occurred. Evidence is relevant when it may aid a decisionmaker in determining whether the alleged Sex Discrimination occurred.
- **Remedies:** Measures provided, as appropriate, to Complainant or any other person identified by the Title IX Coordinator as having had their equal access to the College's education program or activity limited or denied by Sex Discrimination. These measures are provided to restore or preserve that person's access to the College's education program or activity after the College determines that Sex Discrimination occurred under the Grievance Procedures.
- **Respondent:** A person who is alleged to have violated the Title IX Policy. Hampshire College is not a Respondent.
- **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 victim, including instances where the victim is incapable of giving consent because of their age or their temporary or permanent mental or physical incapacity.
- **Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or their temporary or permanent mental or physical incapacity.

- **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent.
- **Student:** A person who has gained admission to Hampshire College.
- **Supportive Measures:** Individualized measures offered, as appropriate, as reasonably available, without unreasonably burdening Complainant or Respondent, and not for punitive or disciplinary reasons, and without fee or charge to Complainant or Respondent to (1) restore or preserve the party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the educational environment; or (2) provide support during the Grievance Procedures or informal resolution process.

## Appendix B

### **ON-CAMPUS RESOURCES:**

The following represent some of the resources and services available to Hampshire College students, faculty, and staff, including members of the Five College Consortium.

#### Private and Confidential Resources

##### **Hampshire College Health & Counseling Services**

Location: Montague House (across from the Red Barn) and  
next-door, in Stiles House (between the Red Barn and the Hitchcock Center)

Phone: 413.559.5458

Email: [healthservices@hampshire.edu](mailto:healthservices@hampshire.edu)

Clinic hours are 8:30 a.m. to 5:00 p.m. weekdays.

When Health Services is closed during the academic year (nights, weekends, and during vacation periods), students with emergencies may be seen at one of the locations listed below.

##### **Hampshire College Designated Private Resource (MA-required Confidential Resource Provider)**

- Jenny Kurtz, Director of Prevention and Education –  
Location: Dakin Student Life Center, 1st floor  
Phone: 413.559.5673  
Email: [jmkSA@hampshire.edu](mailto:jmkSA@hampshire.edu)  
Office hours are 8:30 a.m. to 5:00 p.m. weekdays

#### Non-Confidential Resources

These Employees are required to provide all information about conduct that reasonably may constitute Sex Discrimination under the Policy to the Title IX Coordinator.

### **Title IX Coordinator and Deputy Coordinator(s)**

<b>Interim Title IX Coordinator</b>	<b>Amy Fabiano</b> Remote 508.926.3395 <a href="mailto:afsa@hampshire.edu">afsa@hampshire.edu</a> <a href="mailto:titleix@hampshire.edu">titleix@hampshire.edu</a>
<b>Deputy Title IX Coordinator</b>	<b>Amanda Surgen</b> , Associate Director of Outdoor Programs, Recreation and Athletics (OPRA) Robert Crown Center • Hampshire College • Amherst, MA 01002 413.559.5754 <a href="mailto:aksOP@hampshire.edu">aksOP@hampshire.edu</a>
<b>Deputy Title IX Coordinator</b>	<b>Carolyn Strycharz</b> , Director of Student Affairs - Student Wellness & Divisional Projects • Merrill Student Life Center, 2nd

	Floor • Hampshire College • Amherst, MA 01002 413.559.5746 <a href="mailto:cstrycharz@hampshire.edu">cstrycharz@hampshire.edu</a>
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**Campus Safety and Wellbeing**

Location: Basement of Library / Ground Floor, Merrill Building  
 Phone: 413-559-5424 or 413-559-5555 (emergencies)      Email: [csw@hampshire.edu](mailto:csw@hampshire.edu)  
 Campus Safety and Wellbeing staff are available 24 hours a day, seven days a week.

**Division of Justice, Equity and Antiracism**

[jea@hampshire.edu](mailto:jea@hampshire.edu)

**Residence Life and Student Engagement**

Resident advisors and community facilitators, paraprofessional residence life staff who provide student support and programming.  
 Location: Merrill Hall, 2<sup>nd</sup> Floor  
 Phone: 413.559.5453      Email: [rlse@hampshire.edu](mailto:rlse@hampshire.edu)  
 Office hours are 8:30 a.m. to 5:00 p.m. weekdays

**Human Resources**

Location: Blair Hall  
 Phone: 413.559.5605      Email: [hr@hampshire.edu](mailto:hr@hampshire.edu)  
 Office hours are 8:30 a.m. to 5:00 p.m. weekdays

**OFF CAMPUS RESOURCES:**

The following represent some of the resources and services available to Hampshire College students, faculty, and staff.

**Medical Assistance:**

- Cooley Dickinson Hospital, 24/7 sexual assault nurse exams (SANE), 30 Locust Street, Northampton, MA 01061 413.582.2000
- University of Massachusetts Health Services, sexual assault nurse exam (SANE) free of charge, 150 Infirmary Way, Amherst, MA 413.577.5000

Each of these facilities has access to Sexual Assault Nurse Examiners (also known as “SANE Nurse”). SANE Nurses can assess injuries related to physical trauma; evaluate for sexually transmitted infections and possible pregnancy; provide medical care (including medications to prevent infections and pregnancy); and can, within the first 72 hours after a sexual assault, administer a “forensic sexual assault examination.” During the forensic exam, the SANE Nurse documents and collects evidence of sexual contact and/or physical trauma (including injuries to the body and genitals), trace evidence, biological fluids, and identifiable DNA. When there is reason to believe that an assault may have been facilitated by the use of drugs or alcohol, the forensic exam may also include the collection of urine and blood samples for toxicology testing. A patient who requests a SANE exam is not required to report the incident to law enforcement or the College in order to receive medical attention or a forensic exam. Patients may have a support

person of their choosing present throughout the forensic exam. Students may access follow-up care at Hampshire College Health & Counseling Services, or through any appropriate health care provider outside of the College. Employees may access follow-up care through any appropriate health care provider of their choice.

For medical assistance on campus, contact Hampshire College Health & Counseling Services 413.559.5458. Clinic hours are 8:30 a.m. to 5:00 p.m. weekdays. When Health Services is closed during the academic year (nights, weekends, and during vacation periods), students with emergencies may be seen at one of the locations listed above.

### **Confidential Community Counseling and National Crisis Resources:**

These individuals may provide confidential counseling and support without disclosing the reported incident to the Title IX Coordinator or other Employee of the College:

- Center for Women and Community at the University of Massachusetts, multiple options for counseling available for all genders, 24/7 crisis hotline 1.888.337.0800, <http://www.umass.edu/ewc/>
- Safe Passage, hotline, counseling, shelter, 413.586.5066
- Rape and Incest National Network (RAINN) Hotline (800) 656-4673 <https://rainn.org/>

### **Law Enforcement**

All Hampshire community members have the right to report crimes to the police. The police have unique legal authority to seek and execute search warrants, to collect forensic evidence that may have been left at the scene or at other relevant locations, to obtain cell phone and electronic records, and to make an arrest when supported by probable cause to believe a crime has been committed. The police are also able to provide assistance in seeking court-ordered protective orders.

#### Local Police Department

Amherst Police Station

Location: 111 Main Street, Amherst, MA. 01002

Phone: 413-259-3000

Hadley Police Department

Location: 15 East Street, Hadley, MA 01035

Phone: 413-584-0883

Northampton Police Department

29 Center Street, Northampton, MA 01060

Phone: 413.587.1100

#### State Police Department

Massachusetts State Police

General Headquarters

470 Worcester Road, Framingham, MA 01702

Phone: 508-820-2300



**Legal Resources:**

There are several resources that may help Hampshire community members explore and understand their legal rights and options – both criminal and civil – following alleged Sex Discrimination.

- Campus Police Victim/Witness Assistance Center, located at
- <https://www.mtholyoke.edu/directory/departments-offices-centers/public-safety-and-service/reporting-records-and-crime-victim-services/assistance-crime-victims-or-witnesses>
- Mass Legal Services <https://masslrf.org/en/home>
- Mass Legal Help <http://www.masslegalhelp.org/domestic-violence>
- Jane Doe Inc. <https://www.janedoe.org/>
- Northwestern District Attorney's Office <http://northwesternda.org/victim-witness-assistance-unit>

The Northwestern District Attorney's Office Domestic Violence and Sexual Assault Unit works closely with police departments, courts and social service agencies to address the serious problem of domestic violence and sexual assault through prosecution of the offenders and the development of strategies for prevention and intervention for victims. If you are the victim of abuse and you notify the District Attorney's office, they may file charges against the Respondent. If that occurs, you will be assigned a victim witness advocate to keep you informed of court proceedings and you will have the right to be notified of the proceedings and to submit a victim impact statement to the court at sentencing.