

## OUTLINE

### I. Overview: Institutional Values and Community Principles

### II. Scope of Policy

### III. Notice of Non-Discrimination

- A. Role of Title IX Officer

### IV. Privacy and Confidentiality

- A. Privacy
- B. Confidentiality
- C. Responsible Employees
- D. Request for Confidentiality
- E. Timely Warning

### V. Prohibited Conduct and Definitions

- A. Sexual Harassment
- B. Sexual Assault
- C. Non-Consensual Sexual Contact
- D. Sexual Exploitation
- E. Stalking
- F. Indecent Exposure
- G. Intimate Partner Violence
- H. Physical Assault
- I. Prohibited Relationships by Persons in Authority
- J. Retaliation
- K. Other Campus Code Violations

### VI. Consent and Related Definitions

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

### VII. Resources

- A. Awareness and Prevention of Sexual Misconduct
- B. Emergency Support and Response Services in the Event of Sexual Violence
- C. Medical Resources in the Event of Sexual Violence
- D. Confidential Support
  - a. On Campus Confidential Support

- b. Off Campus Confidential Support
- E. Private Resources and Reporting Options
- F. Additional Community Resources

## VIII. Reporting

- A. Reporting to and Coordination with Law Enforcement
- B. Campus Reporting Options
- C. Anonymous Reporting
- D. Reporting Sexual Harassment
- E. Reporting Considerations: Timeliness of Report and Location of Incident
- F. Amnesty for Alcohol or Other Drug Use
- G. Statement against Retaliation
- H. False Reports
- I. Reports involving Minors or Suspected Child Abuse

## IX. Safety and Remedial Measures

- A. Range of Safety and Remedial Measures
- B. Interim Suspension or Leave

## X. Title IX Review and Resolution

- A. Overview of Procedural Options (student, staff, faculty)
- B. Role of the Title IX Officer and Team
- C. Initial Title IX Review
- D. Informal or Remedies-Based Resolution
- E. Formal Resolution
- F. Investigation

Appendix A: Procedures for Resolving Complaints Against a Student

Appendix B: Flow Chart for Procedures for Resolving Complaints Against a Student

Appendix C: Summary of Rights

Appendix D: Possible Sanctions For Students Found Responsible for Violations

Appendix E: List of Resources

## I. Overview: Institutional Values and Community Principles

Bates College values the diversity of persons, perspectives, and convictions. Critical thinking, rigorous analysis, and open discussion of a full range of ideas lie at the heart of the college's mission as an institution of higher learning. The college seeks to encourage inquiry and reasoned dialogue in a climate of mutual respect. The application of the **Sexual Misconduct and Harassment Policy** strives to ensure that we uphold our institutional values and community principles in order to maintain a community free from the harmful consequences of sexual and gender-based harassment. Harassment and discrimination threaten our ability to thrive personally, academically, and professionally at Bates. Sexual misconduct, a form of sex discrimination, violates a person's rights, dignity, and integrity and violates our community principles and the mission of the college.

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

The purpose of this policy is to provide the Bates College community with a clearly articulated set of behavioral standards, common understandings of definitions and key concepts, and descriptions and examples of prohibited conduct, including sexual harassment, sexual violence, stalking, and domestic and dating violence (or intimate partner violence). The policy applies to all community members, including students, faculty, staff, contractors, and visitors. It is intended to guide students, faculty, and staff who have been affected by sexual harassment or misconduct, whether as a Reporting Party, a Responding Party, or a third party.

In this policy, "Reporting Party" refers to an individual who identifies as being a victim or survivor of sexual harassment, sexual violence, stalking or intimate partner violence. "Responding Party" refers to an individual who has been accused of sexual harassment or misconduct. A "third party" refers to any other participant in the process, including an individual who makes a third party report, participates in an investigation or disciplinary process as a witness, or is affected by any prohibited conduct.

This policy, as set forth, reaffirms Bates' institutional values, defines community expectations, provides recourse for those individuals whose rights have been violated, and provides for fair and equitable procedures for determining when this policy has been violated. The college is committed to fostering a climate free from sexual harassment, sexual violence, stalking, and intimate partner violence through clear and effective policies; a well-coordinated and integrated education and prevention program; and prompt and equitable procedures for resolution of reports. In all instances, the college, not the Reporting Party, will bear the responsibility for investigating and taking appropriate action, including the decision to seek disciplinary action against a Responding Party.

This policy prohibits all forms of sexual or gender-based harassment, discrimination or misconduct, including sexual violence, sexual assault, stalking, and intimate partner violence. Misconduct of this nature is contrary to Bates' institutional values and prohibited by state and federal law. The college is dedicated to addressing cases of sexual misconduct promptly, supporting all parties involved. Any individual who is found to have violated this policy may face disciplinary sanctions up to and including expulsion or termination of employment.

Bates strongly encourages the prompt reporting of any incident of sexual or gender-based misconduct to the college and to local law enforcement or civil rights enforcement agencies. Upon receipt of a report, the college will take prompt and effective action by: providing interim remedies and support for individuals who make a report or seek assistance under this policy; conducting a review of the conduct under Title IX of the Education Amendments of 1972; addressing the safety of individuals and the campus community; and as warranted, pursuing resolution through informal measures or formal disciplinary action against a Responding Party. This policy provides specific procedures for investigation and resolution based on the role of the Responding Party (student or employee).

All Bates community members are strongly encouraged to report information regarding any incident of sexual harassment, sexual violence, stalking or intimate partner violence directly to the Title IX Officer or a Deputy Title IX Coordinator. The college is committed to providing programs, activities and an educational and work environment free from all forms of discrimination including discrimination based on sex. The college cannot take appropriate action unless sex or gender-based discrimination, including sexual harassment, sexual violence, stalking or intimate partner violence, is reported to a "responsible employee" of the college (see Section IV for the definition of a "responsible employee"). By educating all campus constituencies about effective strategies to prevent discrimination and harassment, we can achieve our institutional mission, foster a community built on trust and mutual respect, and protect the health, safety, and welfare of all members of the Bates community.

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

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

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

The college will review the Sexual Misconduct and Harassment Policy on an annual basis in order to attend to evolving legal requirements and improve the institutional response, including support services and resources, based on a review of each year's incidents by the Title IX Officer and Title IX Team. Further, this policy may be amended, in writing, by the President or their designee at any time in consultation with the Title IX Officer.

## II. Scope of Policy

Bates College denounces harassment of and discrimination against any and all individuals or groups. This policy applies to all Bates community members, including students, employees<sup>1</sup>, volunteers, independent contractors, visitors and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the college or on college property. All the aforementioned are responsible for understanding and complying with this policy.

This policy provides community members with the structure and guidance to assist those who have been affected by sexual harassment, sexual violence, stalking or intimate partner violence or other forms of sexual misconduct, whether as a Reporting Party, a Responding Party, or a third party, and to provide fair and equitable procedures for investigation and resolution of reports.

When used in this policy, "Reporting Party" refers to an individual who identifies as being a victim or survivor of sexual harassment, sexual violence, stalking or intimate partner violence or other forms of sexual misconduct. "Responding Party" refers to an individual who has been accused of prohibited conduct under this policy. "Third party" refers to any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else.

All Bates community members are responsible for their actions and behavior, and are required to follow college policies and local, state, and federal law. This policy applies to conduct occurring on Bates College property or at college-sanctioned events or programs that take place off campus, including, but not limited to, study away, internship programs, community-engaged learning, and athletics events. In situations in which both the Reporting Party and Responding Party are members of the Bates College community, this policy will apply regardless of the location of the incident. In particular, off campus conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the Bates College community or Bates College is covered under this policy.

A Reporting Party is encouraged to report the misconduct to the college regardless of where the incident occurred, or who committed it. The college has jurisdiction to take disciplinary action against a Responding Party who is a current student or employee. Even if the college does not have jurisdiction over the Responding Party, the college will take prompt action to provide for the safety and well-being of the Reporting Party and the broader campus community using all available resources.

---

<sup>1</sup> For the purposes of the policy, "employee" refers to all faculty and staff, including members of the administration and instructional staff.

### III. Notice of Non-Discrimination

Bates College is committed to providing equal opportunity and an educational and work environment free from any discrimination on the basis of race, color, national or ethnic origin, religion, sex, sexual orientation, gender identity or gender expression, age, disability, genetic information, or veteran status and other legally protected statuses in the recruitment and admission of its students, in the administration of its education policies and programs, or in the recruitment and terms and conditions of employment of its faculty and staff. Bates College shall adhere to all applicable state and federal equal opportunity laws and regulations.

The college is dedicated to ensuring access, fairness and equity for all persons in its educational programs, related activities and employment, including those groups who have faced historical barriers to full and fair integration and participation. Bates College maintains a continuing commitment to identify and eliminate discriminatory practices in every phase of college operations.

This policy addresses all forms of sex discrimination, including sexual harassment, sexual violence, stalking, and intimate partner violence. Bates College does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Title IX is enforced by the Office for Civil Rights within the U.S. Department of Education, which has promulgated regulations explaining and implementing Title IX. Sex discrimination and sexual harassment are also prohibited under Title VII of the Civil Rights Act of 1964, and the Maine Human Rights Act, the regulations of both the Equal Employment Opportunity Commission and the Maine Human Rights Commission, and other applicable statutes.

This policy prohibits sexual harassment, sexual violence, stalking, and intimate partner violence against Bates community members of any gender, gender identity, gender expression, or sexual orientation. This policy also prohibits sex- and gender-based harassment that does not involve conduct of a sexual nature.

The college also recognizes that harassment related to an individual's gender, gender identity or expression, or sexual orientation can occur in conjunction with misconduct related to an individual's race, color, national or ethnic origin, religion, age, disability or other statuses. Targeting individuals on the basis of these characteristics violates college policy and community principles. Under these circumstances, the college will coordinate the investigation and resolution efforts to address harassment related to the targeted individual's gender, gender identity or expression, or sexual orientation together with the conduct related to the targeted race, color, national or ethnic origin, religion, age, disability or other statuses.

Bates College, as an educational community, will respond promptly and equitably to reports of sexual harassment, sexual violence, stalking, and intimate partner violence in order to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

## **A. Role of Title IX Officer**

The President of Bates College has designated Gwen Lexow to serve as the college's Title IX Officer. The Title IX Officer oversees the college's centralized review, investigation, and resolution of reports of sexual harassment, sexual violence, stalking, and intimate partner violence. The Title IX Officer also coordinates the college's compliance with Title IX and other applicable statutes.

The Title IX Officer is:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence involving students, staff, administrators, faculty, vendors, and visitors;
- Assisted by designated Deputy Title IX Coordinators in athletics, student affairs, human resources, and the faculty. These Deputy Title IX Coordinators have a shared responsibility for supporting the Title IX Officer and are accessible to any member of the community for consultation and guidance;
- Knowledgeable and trained in college policies and procedures and relevant state and federal laws;
- Available to provide information to any individual, including a Reporting Party, a Responding Party or a third party, about the courses of action available at the college, both informally and formally, and in the community;
- Available to provide assistance to any college employee regarding how to respond appropriately to a report of sexual harassment, sexual violence, stalking, or intimate partner violence;
- Responsible for monitoring full compliance with all procedural requirements and time frames outlined in this policy;
- Responsible for overseeing training, prevention and education efforts and periodic reviews of climate and culture; and
- Responsible for compiling annual reports.

The Title IX Officer is supported by the Title IX Team. Members of this interdepartmental team include the Title IX Officer and the Title IX Deputy Coordinators.

Inquiries or complaints concerning the application of Title IX may be referred to the college's Title IX Officer and/or to the U.S. Department of Education's Office for Civil Rights or Maine Human Rights Commission:

**Gwen Lexow**

Director of Title IX and Civil Rights  
Compliance (Title IX Officer)  
Lane Hall 202-A  
*Phone:* 207-786-6445  
*Email:* glexow@bates.edu  
*Web:* www.bates.edu/sexual-respect

**Maine Human Rights Commission**

#51 State House Station  
19 Union Street  
Augusta, ME 04333  
*Phone:* 207-624-6290  
*Fax:* 207-624-8729  
*Web:* www.maine.gov/mhrc/

**Office for Civil Rights**

U.S. Department of Education  
Boston Office  
5 Post Office Square, 8th Floor  
Boston, MA 02109-3921  
*Phone:* 617-289-0111  
*Fax:* 617-289-0150  
*Email:* ocr.boston@ed.gov  
*Web:* www2.ed.gov/about/offices/list/ocr/

Inquiries involving employees may be referred the Title IX Officer or to the following government agencies:

**United States Equal Employment  
Opportunity Commission**

Boston Office  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
*Phone:* 800-669-4000  
*Fax:* 617-565-3196  
*Web:* www.eeoc.org

**Maine Human Rights Commission**

#51 State House Station  
19 Union Street  
Augusta, ME 04333  
*Phone:* 207-624-6290  
*Fax:* 207-624-8729  
*Web:* www.maine.gov/mhrc/



## IV. Privacy and Confidentiality

- A. Privacy
- B. Confidentiality
- C. Responsible Employees
- D. Request for Confidentiality
- E. Timely Warning

Bates College is committed to protecting the privacy of all individuals involved in a report of sexual misconduct, including sexual harassment, sexual violence, stalking, or intimate partner violence. All college employees who are involved in the college's Title IX response, including investigators and sanction board members, receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report. Such a review is essential to protecting the safety of the Reporting Party, the Responding Party, and the broader campus community and to maintaining an environment free from sex discrimination and gender-based harassment.

Privacy and confidentiality have distinct meanings under this policy.

### A. Privacy

Privacy generally means that information related to a report of misconduct will only be shared with a limited group of individuals. The use of this information is limited to those college employees who "need to know" in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet, and respect and safeguard the privacy of all individuals involved in the process. Conversations with individuals designated as private resources constitutes a report to the college and will initiate an inquiry into the incident.

### B. Confidentiality

Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These campus and community professionals include mental health providers, ordained clergy, sexual assault advocates and rape crisis counselors. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others or as otherwise required by law.

On campus, confidential resources available to students include counselors in Bates Counseling and Psychological Services and medical providers in Bates Health Services, ordained clergy in the Multifaith Chaplaincy, and the Sexual Assault Victim Advocate. Employees may access confidential assistance through the Employee Assistance Program as well. Community resources for students and employees include Sexual Assault Prevention and Response Services (SAPARS), Safe Voices, and Tri-County Mental Health Services. Information shared with these resources will remain confidential and will not be shared with the college or anyone else without express permission of the individual seeking services. Conversations with these individuals do not constitute reports to the college and do not initiate any investigative response.

When a report involves suspected abuse of a minor under the age of 18, these confidential resources are required by state law to notify Maine Office of Child and Family Services and/or the District Attorney's office.

An individual who has experienced sexual misconduct may also seek assistance from a medical provider. In general, the disclosure of private information contained in medical records is protected by the Health

Insurance Portability and Accountability Act (HIPAA). The individual has the right to request that a sexual assault advocate be present and to request that law enforcement not pursue a criminal charge. Neither campus nor community medical providers will notify the college of the report.

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

### **C. Responsible Employee**

College employees responsible for student welfare and all supervisors who are not specifically designated as confidential resources under this policy are required to share reports of sexual misconduct and harassment with the Title IX Officer or a member of the Title IX Team.

Under Title IX, a college is required to take immediate and corrective action if a "responsible employee" knew or, in the exercise of reasonable care, should have known about sexual or gender-based violence or harassment that creates a hostile environment. A "responsible employee" includes any employee who:

- a. Has the authority to take action to redress the harassment;
- b. Has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees; or
- c. A student could reasonably believe has the authority or responsibility to take action.

Under college policy, all employees responsible for student welfare and all supervisors are considered "responsible employees." This will include, for example, faculty; coaches; administrators; security officers; junior advisors and residential coordinators; and other staff and student employees with a responsibility for student welfare. All administrators, faculty members, and supervisors are aware of their responsibility to assist students, faculty, and staff employees in reporting alleged incidents of sex discrimination or gender-based harassment to the Title IX Officer.

Before a Reporting Party reveals information that the Reporting Party may wish to keep confidential, a responsible employee should make every effort to ensure that the Reporting Party understands: (i) the responsible employee's obligation to report the name of the Responding Party involved in the alleged violation, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX Officer, (ii) the Reporting Party's option to request that the college maintain confidentiality, which the college will consider, and (iii) the Reporting Party's ability to share information with confidential resources as described in the section above.

Any responsible employee who becomes aware of sexual harassment or misconduct or other potentially discriminatory behavior must contact the Title IX Officer or a Deputy Title IX Coordinator. This notification should be done promptly and with attention to the maintaining the Reporting Party's privacy.

Under the guidance of the Title IX Officer, the college will conduct an initial assessment of the conduct; of the Reporting Party's expressed preferences, if any, as to course of action; and of the necessity for any interim measures to protect the safety of the Reporting Party or the community. The goal is to eliminate any hostile, intimidating, or objectively offensive environment.

Any student or employee who believes they are the victim of sexual harassment or other forms of sexual misconduct should report the incident promptly in the manner most comfortable to them.

#### **D. Request for Confidentiality**

The college will pursue a course of action consistent with the Reporting Party's request where possible. Where a Reporting Party requests that their name or other identifiable information not be shared with the Responding Party or that no formal action be taken, the college will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all Bates community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before disciplinary action is taken against a Responding Party. In making this determination, the college may consider, among other factors, the seriousness of the conduct, the respective ages of the parties, whether the Reporting Party is a minor under the age of 18, whether there have been other complaints or reports of harassment or misconduct against the Responding Party, the existence of independent evidence, and the rights of the Responding Party to receive notice and relevant information before disciplinary action is sought. The Title IX Officer in consultation with the Title IX Team will evaluate requests for confidentiality.

The college will take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Reporting Party. The college will assess any barriers to proceeding, including retaliation, and will inform the Reporting Party that Title IX and college policy prohibit retaliation. The college will take rigorous responsive action to protect the Reporting Party.

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

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

#### **E. Timely Warning**

If a report of misconduct discloses a serious, immediate or continuing threat to the Bates community, the college may issue a campuswide timely warning or notification (which may take the form of an email, text or other electronic communication to community members) to protect the health or safety of the community and to heighten safety awareness. A timely warning may include a campuswide notification for a report of sexual assault, stalking, and intimate partner violence. The timely warning will not include any identifying information about the Reporting Party. The college reserves the right to send campuswide notifications on any report of sexual misconduct.

At no time will the college release the name of the Reporting Party to the general public without the express consent of the Reporting Party. The release of the Responding Party's name to the general public is guided by Family Educational Rights and Privacy Act (FERPA) and the Jeanne Clery Act. The college may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions.

All college proceedings are conducted in compliance with the requirements of FERPA, 2013 Reauthorization of the Violence Against Women Act, the Clery Act, Title IX, state and federal law, and college policy. No information shall be released from such proceedings except as required or permitted by law and college policy.

## V. Prohibited Conduct and Definitions

- A. Sexual Harassment
- B. Sexual Assault
- C. Non-Consensual Sexual Contact
- D. Sexual Exploitation
- E. Stalking
- F. Indecent Exposure
- G. Intimate Partner Violence
- H. Physical Assault
- I. Prohibited Relationships by Persons in Authority
- J. Retaliation
- K. Other Campus Code Violations

Bates College prohibits all forms of sexual misconduct and gender-based harassment, including sexual violence, intimate partner violence, and stalking. Each of these terms encompasses a broad range of behavior. In general, sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to incapacitation. Intimate partner violence refers to any act of violence or threatened act of violence, sexual or otherwise, against a person who is or has been involved in a sexual, dating, domestic or other intimate relationship with that person. Stalking refers to a course of conduct directed at a specific person that would cause a person to fear for their safety or the safety of others.

Sexual misconduct can occur between individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals who are not known to one another. Sexual misconduct can be committed by people of any sex or gender, and it can occur between people of the same or different sex or gender identities.

The college prohibits the following specific conduct:

### A. Sexual Harassment

Sexual harassment is any unwelcome sexual advances, requests for sexual favors, and other verbal, written, visual, or physical conduct of a sexual nature when one or more of the following occur:

- a. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of a college program or activity;
- b. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or equal opportunity to participate in or benefit from college employment, programs or activities. That is, the conduct is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both a subjective and an objective standard.

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender stereotyping, even if the acts do not involve conduct of a sexual nature.

A single or isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. The determination of whether an environment is "hostile" must be based on all the circumstances. These circumstances could include, but are not limited to:

- a. The frequency of the speech or conduct;
- b. The nature and severity of the speech or conduct;
- c. Whether the conduct was physically threatening;
- d. Whether the speech or conduct was humiliating;
- e. The effect of the speech or conduct on the Reporting Party's mental and/or emotional state;
- f. Whether the speech or conduct was directed at more than one person;
- g. Whether the speech or conduct arose in the context of other discriminatory conduct;
- h. Whether the speech or conduct unreasonably interfered with the Reporting Party's educational opportunities or performance (including study abroad), college-controlled living environment, or work opportunities or performance;
- i. Whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
- j. Whether the speech or conduct deserves the protections of academic freedom.

Sexual harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents;
- May be committed by anyone, regardless of gender, age, position or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context;
- May be committed by a stranger, an acquaintance, or someone with whom the Reporting Party has an intimate or sexual relationship;
- May be committed by or against an individual or may be a result of the actions of an organization or group;
- May occur by or against an individual of any sex, gender identity, gender expression or sexual orientation;
- May occur in the classroom, in the workplace, in residential settings, or in any other setting;
- May be a one-time event or can be part of a pattern of behavior;

- May be committed in the presence of others or when the parties are alone; and
- May affect the Reporting Party and/or third parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

- a. Physical conduct
  - Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements;
  - Unwanted sexual advances within the employment or academic context;
- b. Verbal conduct
  - Making or using derogatory comments, epithets, slurs or humor;
  - Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations;
  - Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;
- c. Visual or non-verbal conduct
  - Leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons or posters in a public space or forum;
  - Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate; and
- d. Written conduct
  - Letters, notes or electronic communications containing comments, words, or images described above.

Sexually harassing behaviors differ in type and severity. Key determining factors are that the behavior is unwelcome; is based on sex or gender stereotypes; and is used as the basis to give or withhold academic or employment benefits or is reasonably perceived as severe, pervasive, objectionable or offensive under both a subjective and an objective assessment of the conduct.

Sexual harassment may also include what is commonly referred to as "quid pro quo" conduct, which means unwelcome sexual advances or propositions by a supervisor or person of authority toward a subordinate where the superior:

- a. Expressly or impliedly conditions an offer of employment or academic benefit in exchange for sexual favors;
- b. Makes submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or
- c. Makes or threatens reprisals after a negative response to sexual advances.

## **B. Sexual Assault**

Sexual assault is defined as having or attempting to have sexual intercourse with another individual, including:

- a. By the use of force or threat of force;
- b. Without consent; or

- c. Where that individual is incapacitated or physically and/or mentally unable to make informed and reasonable judgments.

*Sexual intercourse* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.

*This definition conforms to the FBI's Uniform Crime Report and Clery Act definition of rape: "the 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 victim." Under Maine state law, however, the rape definition differs in that it requires proof of an element of force or threat of force.*

### **C. Non-Consensual Sexual Contact**

Non-consensual sexual contact is defined as having intentional physical contact of a sexual nature with another individual:

- a. By the use of force or threat of force;
- b. Without consent; or
- c. Where that individual is incapacitated or physically and/or mentally unable to make informed and reasonable judgments.

Non-consensual sexual contact includes: touching the intimate parts of another; touching a person with one's own intimate parts; forcing a person to touch another's intimate parts; forcing a person to touch their own intimate parts; or disrobing or exposure of another without permission. Intimate parts may include the breasts or chest, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner, or the clothing covering the same.

### **D. Sexual Exploitation**

Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

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

- Surreptitiously observing another individual's nudity or sexual activity or allowing another individual or group to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Distributing sexually intimate or sexual information about another person;
- Prostituting an individual;
- Inducing another to expose their own genitals in non-consensual circumstances;
- Knowingly exposing another individual to a sexually transmitted infection (STI) or virus without their knowledge;
- Sexually-based stalking and/or bullying;
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity; and
- Knowingly assisting another person with committing an act of sexual misconduct.

## **E. Stalking**

Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, under circumstances that would:

- a. Place the person in reasonable fear for safety, or of harm or bodily injury to self or others; or
- b. Reasonably cause substantial emotional distress to the person.

A course of conduct refers to a pattern of behavior of two or more acts over a period of time that can be reasonably regarded as likely to alarm, harass, or cause fear of harm or injury to that person or to a third party. The feared harm or injury may be physical, emotional, or psychological, or related to the personal safety, property, education, or employment of that individual. Stalking may involve individuals who are known to one another, including those who have an intimate or sexual relationship, or may involve individuals who are not known to one another.

Stalking includes cyber-stalking, a particular form of stalking in which technological means are used to pursue, harass, or make unwelcome contact with another person in an unsolicited fashion. Such methods include the use of the Internet, emails, social media, or blogs; landlines and cell phones; text messaging; global positioning systems; spyware on a person's computer or cellphone; or other similar devices or forms of contact.

Examples of stalking include, but are not limited to:

- Non-consensual communication including telephone calls, text messages, email messages, social network site postings, letters, gifts, or any other communications that are unwanted and/or place another person in fear;
- Following, pursuing, waiting or showing up uninvited at a classroom, workplace, residence, or other locations frequented by the person;
- Leaving unwanted written messages, objects or gifts;
- Vandalizing a person's property;
- Surveillance and other types of observation by physical proximity or electronic means,
- Accessing email and social media accounts;
- Spreading lies or rumors about a person, for example, filing false reports, posting or distributing personal or false information;
- Manipulative or controlling behaviors, such as threats to harm oneself in order to force contact;
- Assaulting or killing the victim's pet;
- Threatening physical contact against a person or their friends and family; or
- Any combination of these behaviors directed toward an individual person.

Under the Clery Act and the Violence Against Women Act, the college will record and report all relevant incidents of stalking.

## **F. Indecent Exposure**

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



## **G. Intimate Partner Violence**

Intimate partner violence refers to dating violence, domestic violence or relationship violence. Intimate partner violence includes any act of violence or threatened act of violence against a person who is in, or has been involved in, a sexual, dating, domestic, or other intimate relationship with the Responding Party. Intimate partner violence can encompass a broad range of behavior including, but not limited to, physical violence, sexual violence, emotional abuse, and economic abuse. It may involve one act or an ongoing pattern of behavior. Intimate partner violence may take the form of threats, assault, property damage, violence, or threat of violence to one's self, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and does not discriminate by racial, social, or economic background.

The college will not tolerate intimate partner violence of any form. For the purposes of this policy, the college does not define intimate partner violence as a distinct form of misconduct. Rather, the college recognizes that sexual harassment, sexual assault, sexual exploitation, harm to others, stalking, and retaliation all may be forms of intimate partner violence when committed by a person who is or has been involved in a sexual, dating or other social relationship of a romantic or intimate nature with the Reporting Party.

Examples of intimate partner violence include, but are not limited to:

- Striking, grabbing, punching, choking, or pushing one's partner, or threatening to do any of the foregoing;
- Throwing, smashing, or breaking objects;
- Restricting one's partner's physical movements;
- Constantly texting or calling when not together;
- Threatening to "out" or disclose personal information of one's partner;
- Insisting on knowing where one's partner is located;
- Forcing faith practices on one's partner;
- Mocking or ridiculing one's religious or spiritual beliefs; or
- Hiding or destroying one's visa, immigration paperwork, or other important legal documents.

Under the Clery Act and the Violence Against Women Act, the college will record and report all relevant incidents of intimate partner violence.

## **H. Physical Assault**

Physical assault is a purposeful action meant to threaten or endanger the health or safety of any person. Examples include, but are not limited to, fighting, pushing, kicking, punching, hitting with or throwing an object at, or biting. This behavior is typically treated as a violation of the Bates Code of Student Conduct and the Employee Conduct policy. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the misconduct will be resolved under the Sexual Misconduct and Harassment Policy.

## **I. Prohibited Relationships by Persons in Authority**

Sexual, romantic or other intimate relationships in which one party maintains a direct supervisory or evaluative role over the other party are prohibited. In general, this includes all sexual or other intimate relationships between students and their employers, supervisors, professors, coaches, advisors or other college employees. Similarly, college employees (faculty and staff) who supervise or otherwise hold positions of authority over others are prohibited from having a sexual or other intimate relationship with an individual under their direct supervision.

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

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

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

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

#### **J. Retaliation**

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

Any form of retaliation should be reported to the Title IX Officer or one of the Deputy Title IX Coordinators immediately. The college cannot stop retaliation until it is reported. Once notified, the college will take immediate and responsive action to any report of retaliation and may pursue disciplinary proceedings independent of the sanction or protective measures imposed in response to the underlying allegations of Sexual Misconduct or Harassment. Disciplinary action may include termination of employment or dismissal from the college.

#### **K. Other Campus Code Violations**

When other potential violations of the Bates Code of Student Conduct or the Employee Conduct policy occur in conjunction with incidents of sexual misconduct or when the behavior is perpetrated on the basis of sex or gender, the college has the discretion to resolve these violations under whichever policy it deems most appropriate.

## VI. Consent and Related Definitions

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

### A. Consent

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

The following are essential elements of consent:

#### a. Informed and reciprocal

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

#### b. Freely and actively given

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

#### c. Mutually understandable

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

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

#### d. Not indefinite

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

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

**e. Not unlimited**

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

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

In the State of Maine, consent cannot be given by minors who are 14 or 15, if the actor is at least 5 years older than the minor. Consent cannot be given by minors under 14 years of age, regardless of the age of the Responding Party. For this reason, any sexual act with an individual under 14 is considered a felony.

**B. Force**

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

**C. Coercion**

Coercion is the use of pressure that compels another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, implied threats or blackmail which places a person in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to "out" someone based on sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

**D. Incapacitation**

Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction). Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically unable to make informed, reasonable judgments. An individual is incapacitated, and therefore unable to give consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person; however, warning signs that a person may be approaching incapacitation include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, loss of consciousness, or emotional volatility.

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

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

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

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

### **E. Alcohol or Other Drugs**

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

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, sexual violence, stalking, intimate partner violence or other sexual misconduct and does not diminish one's responsibility to obtain informed and freely given consent.

## VII. Resources

- A. Awareness and Prevention of Sexual Misconduct
- B. Emergency Support and Response Services in the Event of Sexual Violence
- C. Medical Resources in the Event of Sexual Violence
- D. Confidential Support
  - a. On Campus Confidential Support
  - b. Off Campus Confidential Support
- E. Private Resources and Reporting Options
- F. Additional Community Resources

Bates is committed to treating all members of the community with dignity, care and respect. Any individual who experiences or is affected by sexual harassment, sexual violence, stalking or intimate partner violence, whether as a Reporting Party, a Responding Party, or a third party, will have equal access to support and counseling services through the college. Interim remedies are also available to all parties.

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

Bates is committed to providing a comprehensive and integrated prevention, education, and awareness program that attends to the multifaceted dynamics of sexual harassment, sexual violence, stalking, and intimate partner violence. The college strives to create a non-discriminatory and harassment-free living, learning, and working environment for all members of the Bates community, including students, staff, faculty, and visitors. The Bates Title IX Officer oversees all college education and prevention programs and develops initiatives to respond to campus needs and climate.

### **A. Awareness and Prevention of Sexual Misconduct**

All incoming students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training and education on a periodic basis. Educational programs focused on sexual misconduct include an overview of the college's policies and procedures, relevant definitions, including prohibited conduct, discussion of the impact of alcohol and illegal drug use, effective consent, safe and positive options for bystander intervention, and information about risk reduction. The Title IX Officer oversees the education and prevention calendar and tailors programming to campus needs and climate. All educational programs include a review of resources and reporting options available for students, faculty and staff.

### **B. Emergency Support and Response Services in the Event of Sexual Violence**

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

Assistance is available from Bates Security and local law enforcement 24 hours a day, year-round, by calling Bates Security and/or the Lewiston Police Department. Any individual can request that a member

of Bates Security and/or Lewiston Police Department respond and take a report. An officer from the Lewiston Police Department can meet with a student or employee on campus wherever they are most comfortable. Bates Security will provide transportation upon request to a medical center or the police department. Health Services also can provide a taxi voucher for free transportation to local medical centers.

### **Emergency Response Services**

**911**

#### **Bates Campus Safety and Security**

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

#### **Lewiston Police Department**

207-784-6421

### **C. Medical Resources in the Event of Sexual Violence**

A medical provider can provide emergency and/or follow-up medical services. The medical exam has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses [STI] or possibility of pregnancy) and second, to properly collect and preserve evidence. The exam may include testing and prophylactic treatment for HIV/AIDS, STIs, and pregnancy; a thorough physical examination, which includes the genital and/or anal area; and a blood draw. There is a limited window of time (typically 72-96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any particular course of action. The decision to seek timely medical attention and gather any evidence, however, will preserve the full range of options to seek resolution under this policy or through the pursuit of criminal prosecution.

On campus, **Bates Health Services** can provide medical care to students during regular business hours; however, Health Services is not equipped for forensic examinations. The Reporting Party has the option -- and is encouraged -- to go to **Central Maine Medical Center (CMMC)** for care and to have evidence collected. CMMC provides forensic exams and, hence, is the preferred medical center for those seeking sexual assault forensic examinations. Bates Campus Security will provide transportation upon request to CMMC. Taxi vouchers are available at Bates Health Services to provide free transportation to CMMC.

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

The Sexual Assault Victim Advocate (SAVA) or an advocate from Sexual Assault Prevention and Response Services (SAPARS) is also available to accompany individuals to access off-campus resources.

#### **Bates Health Services**

31 Campus Avenue | 207-786-6199

9 am-5 pm Monday-Friday during academic year

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

#### **Central Maine Medical Center (CMMC)**

300 Main Street, Lewiston | 207-795-2200

24-hour Emergency Department

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

### **Lewiston Family Planning**

179 Lisbon Street, Lewiston | 207-795-4007

Limited hours Monday, Wednesday, Thursday, and Friday

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

## **C. Confidential Support**

Bates encourages all community members to make a prompt report of any incident of sexual harassment, sexual violence, stalking or intimate partner violence to local law enforcement and the college. For individuals who are not prepared to make a report, or who may be unsure what happened, but are still seeking information and support, there are several confidential resources on campus and in the local community, including counseling and support services.

Individuals affected by sexual harassment, sexual violence, stalking, and intimate partner violence and other forms of sexual misconduct may want to consult with someone in a confidential manner without making a report to the college or initiating an investigation. The trained professionals listed in this section are designated as confidential and may not share information about a patient/client (including whether or not that individual has received services) without the individual's expressed consent unless there is imminent danger to the patient/client or others or as otherwise required by law. They may, however, submit non-identifying information about the incident for the purposes of making a statistical report under the Clery Act, as described in Section IV.

### **a. On Campus Confidential Support**

#### **Bates Counseling and Psychological Services**

31 Campus Avenue | 207-786-6199

#### **Sexual Assault Victim Advocate (SAVA)**

Kelly Gorman

Lane Hall 104 | 207-753-6996 | sava@bates.edu

#### **Multifaith Chaplaincy**

##### **Brittany Longsdorf and Raymond Clouthier**

163 Wood Street, 2nd Floor | 207-786-8272

#### **Employee Assistant Program (EAP): GuidanceResources**

www.guidanceresources.com | 800-311-4327 | ID = BEWELL

GuidanceResources is a confidential resource and referral service available to all Bates employees.

### **b. Off Campus Confidential Support**

#### **Sexual Assault Prevention and Response Services (SAPARS)**

24-hour helpline: 800-871-7741



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

**Safe Voices (Domestic Violence)**

24-hour helpline: 800-559-2927

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

**Tri-County Mental Health Services Crisis Center**

24-hour helpline: 888-568-1112

**Rape, Abuse, Incest National Network (RAINN)**

24-hour helpline: 800-656-4673

**National Domestic Violence Hotline**

24-hour helpline: 800-799-7233

**D. Private Resources and Reporting Options**

In addition to the confidential resources listed above, Bates community members have access to a variety of resources provided by the college. The professionals listed below are trained to support individuals affected by sexual harassment, sexual violence, stalking, intimate partner violence or other forms of sexual misconduct and to coordinate with the Title IX Officer consistent with the college's commitment to a safe and healthy educational and work environment. The individuals listed below can a) provide information regarding the college's policies and procedures; b) assist in accessing other support services; and c) help arrange for supportive measures or other remedies. While not bound by confidentiality, these resources will maintain the privacy of an individual's information within the limited circle of those involved in the Title IX resolution process.

While members of the Title IX team specialize in certain areas, a community member can meet or file a report with any of the individuals listed below.

**Title IX Officer, Gwen Lexow**

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

**Security and Campus Safety**

Open 24 hours a day, 7 days a week

245 College Street | 207-786-6254

Emergency: 207-786-6111

**Deputy Title IX Coordinator for Athletics, Melissa DeRan**

Head Volleyball Coach

Alumni Gym #11 | 207-786-5954 | mderan@bates.edu

**Deputy Title IX Coordinator for Faculty, Áslaug Ásgeirsdóttir**

Associate Dean of Faculty and Professor of Politics

Lane Hall 120 | 207-786-6472 | aasgeirs@bates.edu

**Deputy Title IX Coordinator for Staff and Visitors, Shanna Hines**

Assistant Vice President for Human Resources and Environmental Health and Safety  
215 College Street, Room 224 | 207-786-8388 | [shines@bates.edu](mailto:shines@bates.edu)

**Deputy Title IX Coordinator for Students, Erin Foster Zsiga**

Senior Associate Dean of Students for Residence Life and Health Education  
Lane Hall 110 | 207-786-6215 | [efoster@bates.edu](mailto:efoster@bates.edu)

**Junior Advisors/Residence Coordinators/Residence Coordinator Team Leaders**

In houses and residence halls

**E. Additional Community Resources**

Students, faculty and staff members may also access additional resources located in Lewiston/Auburn. These organizations can provide assistance with crisis intervention services, counseling, medical attention and assistance in working with the criminal justice system. Off-campus resources can assist individuals wishing to make a report to the college, but will not notify the college without the Reporting Party's consent. All individuals are encouraged to use the resources that are best suited to their needs, whether on or off campus.

**Androscoggin County Victim-Witness Advocate**

Androscoggin County Courthouse  
2 Turner Street, Auburn, ME 04210  
207-783-7311

Assistance with navigating the criminal justice system. These individuals are not confidential sexual assault victim advocates.

**Androscoggin County District Attorney**

Androscoggin County Courthouse  
2 Turner Street, Auburn, ME 04210  
207-783-7311  
<http://www.androscoggincountymaine.gov/DA/DA.htm>

**Maine Victim's Compensation Program**

Office of the Attorney General  
6 State House Station  
Augusta, Maine 04333-0006  
207-624-7882 | 800-903-7882  
[www.maine.gov/ag/crime/victims\\_compensation/index.shtml](http://www.maine.gov/ag/crime/victims_compensation/index.shtml)

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

**NotAlone.gov**

Federal website dedicated to providing information and resources regarding sexual assault.

## VIII. Reporting

- A. Reporting to and Coordination with Law Enforcement
- B. Campus Reporting Options
- C. Anonymous Reporting
- D. Reporting Sexual Harassment
- E. Reporting Considerations: Timeliness of Report and Location of Incident
- F. Amnesty for Alcohol or Other Drug Use
- G. Statement Against Retaliation
- H. False Reports
- I. Reports Involving Minors or Suspected Child Abuse

The college is committed to providing a variety of accessible means of reporting sexual misconduct so that all instances of sexual assault or harassment will be reported. All Bates community members, even those who are not obligated by the college's Sexual Misconduct and Harassment Policy, are strongly encouraged to report information regarding any incident of sexual misconduct or harassment to the Title IX Officer. The Title IX Officer is specifically charged with coordinating the initial assessment, initiating the investigation, and responding to allegations of sexual misconduct or harassment to stop the conduct, address its effects, and prevent its recurrence.

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

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

### **A. Reporting to and Coordination with Law Enforcement**

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

The college's policy, definitions, and standard of proof may differ from Maine criminal law. A Reporting Party may seek resolution through the college's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's decision whether or not to

prosecute a Responding Party nor the outcome of any criminal prosecution are determinative of whether sexual harassment, sexual violence, stalking, or intimate partner violence has occurred under this policy. Proceedings under the college's Sexual Misconduct and Harassment Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Individuals are not required to file a criminal complaint.

At the request of local law enforcement, the college may agree to defer for a short time its Title IX fact gathering until after the initial stages of a criminal investigation. The college will nevertheless communicate with the Reporting Party regarding Title IX rights, procedural options, and the implementation of interim measures to assure safety and well-being. The college will promptly resume its Title IX fact gathering as soon as it is informed that law enforcement has completed its initial investigation.

Individuals wishing to file a criminal complaint for incidents of sexual harassment, sexual violence, stalking, and intimate partner violence that occurred on campus may contact the Lewiston Police Department directly. Individuals may also contact the Title IX Officer or Campus Security to assist with filing a criminal complaint. Individuals are not required to file a criminal complaint.

**Lewiston Police Department**

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

**B. Campus Reporting Options**

The college encourages all individuals to report sexual misconduct and harassment to the Title IX Officer, a Deputy Title IX Coordinator or a member of Campus Safety and Security. These individuals are trained annually on issues related to sexual violence and harassment and receive specific instruction about respecting and safeguarding private information.

All Bates community members, even those who are not obligated to do so by this policy, are strongly encouraged to report information regarding any incident of sexual harassment, sexual violence, stalking, or intimate partner violence directly to the Title IX Officer or a member of the Title IX Team. The college cannot take appropriate action unless an incident is reported to the college.

With the exception of those employees who have legally recognized confidentiality or who are listed as Confidential Support Resources in this policy, all college employees with responsibility for the welfare of students and all supervisors, including faculty, coaches, administrators, and residence life staff, are required to share with the Title IX Officer any report of sexual misconduct or harassment they receive or of which they become aware. Student employees who have responsibility for the welfare of other students, such as Junior Advisors (JAs), Residence Coordinators (RCs), and RC Team Leaders (RCTLs), are also required to report to the Title IX Office any incident of sexual misconduct or harassment of which they become aware.

These individuals are required to share with the Title IX Officer all information of which they are aware, including the identities of the parties involved, if known. Disclosure of sexual misconduct to any of these individuals will initiate a response from the Title IX officer or her designee.

**On Campus Reporting Options:**

**Title IX Officer, Gwen Lexow**

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

### **Bates Campus Safety and Security**

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

### **Deputy Title IX Coordinator for Athletics, Melissa DeRan**

Head Volleyball Coach  
Alumni Gym #11 | 207-786-5952 | mderan@bates.edu

### **Deputy Title IX Coordinator for Faculty, Áslaug Ásgeirsdóttir**

Associate Dean of Faculty and Professor of Politics  
Lane Hall 120 | 207-786-6472 | aasgeirs@bates.edu

### **Deputy Title IX Coordinator for Staff and Visitors, Shanna Hines**

Assistant Vice President for Human Resources and Environmental Health and Safety  
215 College Street, Room 224 | 207-786-8388 | shines@bates.edu

### **Deputy Title IX Coordinator for Students, Erin Foster Zsiga**

Senior Associate Dean of Students for Residence Life and Health Education  
Lane Hall 110 | 207-786-6215 | [efoster@bates.edu](mailto:efoster@bates.edu)

## **C. Anonymous Reporting**

Any individual may make an anonymous report concerning an act of sexual misconduct. An individual may report the incident without disclosing their name, identifying the Responding Party, or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the college's ability to respond to an anonymous report may be limited.

The college's anonymous reporting system is hosted by EthicsPoint. This service allows the college to communicate with the person making the report, while maintaining complete confidentiality. EthicsPoint stores all information regarding these reports on their secure servers.

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

**To report anonymously online: [bates.ethicspoint.com](https://bates.ethicspoint.com)**

**To report anonymously by phone: 844-251-1879**

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

## **D. Reporting Sexual Harassment**

In the event that an individual believes that they may be experiencing behavior that constitutes sexual harassment, they should document the behavior and report it to the Title IX Officer or a member of the Title IX Team.

## **E. Reporting Considerations: Timeliness of Report and Location of Incident**

All community members are encouraged to report sexual harassment, sexual violence, stalking, and intimate partner violence as soon as possible in order to maximize the college's ability to respond promptly

and effectively. The college does not, however, limit the time frame for reporting. If the Responding Party is no longer a student or employee or is not a member of the Bates community, the college may not be able to take disciplinary action against the Responding Party, but will still seek to meet its Title IX obligations by taking steps to end the harassment, prevent its recurrence, and address its effects.

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

#### **F. Amnesty for Alcohol or Other Drug Use**

The college seeks to remove any barriers to reporting. An individual who reports sexual harassment or misconduct, either as a Reporting Party or a third party, will not be subject to disciplinary action by the college for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The college may, however, initiate an educational discussion or pursue other educational or therapeutic remedies regarding alcohol or other drugs for those individuals.

#### **G. Statement Against Retaliation**

It is a violation of college policy to retaliate in any way against an individual because they raised allegations of sexual harassment, sexual violence, stalking, or intimate partner violence. The college recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a Reporting Party, Responding Party, or third party may commit or be the subject of retaliation.

The college will take immediate and responsive action to any report of retaliation and will pursue disciplinary action as appropriate. An individual reporting sexual harassment or misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven to be a violation under this policy.

#### **H. False Reports**

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

When a Reporting Party or third party witness is found to have fabricated allegations or given false information with malicious intent or in bad faith, that individual may be subject to disciplinary action. Similarly, a Responding Party or witness who is later proven to have intentionally given false information during the course of an investigation may be subject to disciplinary action. It is a violation of the Code of Student Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

## **I. Reports involving Minors or Suspected Child Abuse**

When a report involves suspected abuse of a minor under the age of 18, the college is required by state law to notify the Maine Office of Child and Family Services and/or the District Attorney's office. This requirement extends to resources designated as confidential by the college, including staff and counselors at Bates Health Services and Bates Counseling and Psychological Services, ordained Multifaith Chaplains, and the Sexual Assault Victim Advocate.

## IX. Safety and Remedial Measures

- A. Range of Safety and Remedial Measures
- B. Interim Suspension or Leave

Upon receipt of a report, the college will impose reasonable and appropriate measures designed to eliminate the hostile environment and protect the parties involved. The college will make reasonable efforts to communicate with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed. Safety and remedial measures may be imposed regardless of whether formal disciplinary action is sought by the Reporting Party or the college.

A Reporting Party or Responding Party may request a No Contact Order or other protective measure, or the college may choose to impose safety or remedial measures at its discretion to ensure the safety of all parties, the safety of the broader college community, and/or the integrity of the process.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by a safety or remedial measure. The college will take immediate and responsive action to enforce a previously implemented measure. These measures will be kept confidential, to the extent that maintaining the confidentiality would not impair the ability of the college to provide the protective measures.

### A. Range of Safety and Remedial Measures

Safety and remedial measures will be implemented at the discretion of the college. Potential remedies, which may be applied to the Reporting Party and/or the Responding Party, include:

- Providing access to counseling services and assistance in setting up an initial appointment, both on and off campus;
- Imposing a No Contact Order between parties;
- Rescheduling of exams and assignments (in conjunction with appropriate faculty);
- Providing alternative course completion options (with the agreement of the appropriate faculty);
- Changing a class schedule, including the ability to take deferral, drop a course without penalty or transfer sections (with the agreement of the appropriate faculty);
- Changing a work schedule or job assignment;
- Changing an on-campus housing assignment;
- Providing assistance from college support staff in completing housing relocation;
- Limiting an individual or organization's access to certain college facilities or activities pending resolution of the matter;
- Providing a voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;
- Providing academic support services, such as tutoring;



- Assisting with transportation needs;
- Imposing interim suspension or leave; and
- Any other remedy that can be tailored to the involved individuals (students or employees) to achieve the goals of this policy.

## **B. Interim Suspension or Leave**

Where the report of sexual harassment, sexual violence, stalking, or intimate partner violence poses a substantial and immediate threat of harm to the safety or well-being of an individual or members of the campus community, or to the performance of normal college functions, the college may place a student or student organization on interim suspension or impose a leave for an employee. Pending resolution of the report, the individual or organization may be denied access to campus, campus facilities and/or all other college activities or privileges for which the individual or organization might otherwise be eligible, as the college determines appropriate based upon the outcome of the investigation. When interim suspension or a leave is imposed, the college will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

Students may be placed on interim suspension at the discretion of the Vice President for Student Affairs and Dean of Students or his designee as described in the Code of Student Conduct. Provisions for suspension of faculty members are contained in the Faculty Handbook. Staff may be placed on leave at the discretion of the college.

## X. Title IX Review and Resolution

- A. Overview of Procedural Options (students, staff, faculty)
- B. Role of the Title IX Officer and Team
- C. Initial Title IX Review
- D. Informal or Remedies-Based Resolution
- E. Formal Resolution
- F. Investigation

### A. Overview of Procedural Options (students, staff, faculty)

Upon receipt of a report, the Title IX Officer, in consultation with members of the Title IX Team as appropriate, will conduct an initial Title IX Review. The goal of this review is to provide an integrated and coordinated response to reports of sexual harassment or misconduct. The review will consider the nature of the report, the safety of the individual and of the campus community, and the Reporting Party's expressed preference for resolution.

At the conclusion of the assessment, the college may choose to pursue Informal Resolution, a remedies-based approach that does not involve disciplinary action against a Responding Party, or refer the matter for a college-based investigation and the Formal Resolution process. The goal of the investigation is to gather all relevant facts and to determine if there is a preponderance of evidence that a violation of the policy occurred.

The initial steps for resolution of a complaint against a student, an employee or a faculty member will involve the same stages: an initial assessment, followed by remedies and informal or formal resolution as appropriate. There are specific procedures for resolving complaints against a student, faculty or staff Responding Party detailed in the relevant Appendices.

### B. Role of the Title IX Officer and Team

The President of Bates College has designated Gwen Lexow to serve as the college's Title IX Officer. The Title IX Officer oversees the college's centralized review and resolution of reports of sexual harassment, sexual violence, stalking, intimate partner violence, and other sexual misconduct. The Title IX Officer also coordinates the college's compliance with Title IX and other applicable statutes.

The Title IX Officer is supported by the Title IX Team. Members of this interdepartmental team include the Title IX Officer and the Title IX Deputy Coordinators. Composition of the team will be limited to a small group of individuals who "need to know" in order to implement procedures under this policy.

Although a report may be made to any college employee, the college seeks to ensure that all reports are referred to the Title IX Team to ensure consistent application of the policy to all individuals and allow the college to respond promptly and equitably to eliminate the harassment, prevent its recurrence and address its effects.

The members of this team oversee the resolution of a report under this policy. Resources are available for both students and employees, whether as a Reporting Party or a Responding Party, to provide guidance throughout the investigation and resolution of the complaint. Interim remedies are also available to provide protection and security.

### **C. Initial Title IX Review**

In every report of sexual harassment or misconduct, the college will make an immediate assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. These steps may include protective measures to provide for the safety of the individual and the campus community.

The initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, further action may be initiated depending on a variety of factors, such as the Reporting Party's wish to pursue informal or formal resolution, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

As part of the initial assessment of the facts, the college will:

- Assess the nature and circumstances of the allegation;
- Respond to any need to address immediate physical safety and emotional well-being;
- Notify the Reporting Party of the right to contact law enforcement and seek medical treatment;
- Notify the Reporting Party of the importance of preservation of evidence;
- Enter the report into the college's daily crime log;
- Assess the reported conduct for the need for a timely warning under the Clery Act;
- Provide the Reporting Party with information about on- and off-campus resources;
- Notify the Reporting Party of the range of available safety and remedial measures;
- Provide the Reporting Party with an explanation of the procedural options, including informal remedies-based resolution and formal resolution;
- Assess for pattern evidence or other similar conduct by Responding Party;
- Discuss the Reporting Party's expressed preference for manner of resolution and any barriers to proceeding; and
- Explain to the Reporting Party the college's policy prohibiting retaliation.

### **D. Informal or Remedies-Based Resolution**

Informal resolution is a remedies-based, non-judicial approach designed to eliminate a hostile environment without taking formal disciplinary action against a Responding Party.

Where the Title IX Review concludes that informal resolution may be appropriate, the college will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Reporting Party's access to the educational activities at the college and to eliminate a hostile environment. Examples of protective remedies are detailed in the Safety and Remedial Measures section above. Other potential remedies include targeted or broad-based educational programming or training, direct confrontation of the Responding Party and/or indirect action by the Title IX Officer or the college. Depending on the form of informal resolution used, it may be possible to maintain the anonymity of the Reporting Party.

The college will not compel a Reporting Party to engage in mediation or a restorative justice process, to directly confront the Responding Party, or to participate in any particular form of informal resolution. Mediation or restorative practices, even if voluntary, may not be used in cases involving sexual violence or assault. The use of restorative justice in other cases, with the approval of all parties, may be considered. The decision to pursue informal resolution will be made when the college has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in informal resolution is voluntary, and a Reporting Party can request to end informal resolution at any time.

The Title IX Officer will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within thirty (30) business days of the initial report.

## **E. Formal Resolution**

Disciplinary action against a Responding Party may only be taken through Formal Resolution procedures. Because the relationship of students, staff, and faculty to the college differ in nature, the procedures that apply when seeking disciplinary action necessarily differ as well. Each of the procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under this policy.

The specific procedures for Formal Resolution will vary based upon the role of the Responding Party:

- For a report against a student, disciplinary action may be taken by the Sexual Misconduct Board after the investigator has determined that a violation has occurred.
- For a report against an employee, disciplinary action may be taken at the conclusion of the investigation by the Assistant Vice President for Human Resources and Environmental Health and Safety or their designee.
- For a report against a faculty member, disciplinary action may be taken at the conclusion of the investigation by the Vice President for Academic Affairs and Dean of the Faculty, or their designee, using the procedures outlined in the Faculty Handbook.

## **F. Investigation**

Where the Title IX review concludes that a policy violation may have occurred and disciplinary action may be appropriate, the college may initiate a formal investigation. The college will designate a trained investigator who has specific training and experience investigating allegations of sexual harassment, sexual violence, stalking, and intimate partner violence. The investigator may be an employee of the college or an external investigator engaged to assist the college in its fact gathering and determination of a finding. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigator will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Reporting Party, the Responding Party and any witnesses. The investigator will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. In gathering the facts, the investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the Responding Party to the extent such information is relevant

As part of the investigation, the college will provide an opportunity for the parties to present witnesses and other evidence. Witnesses must have observed the acts in question or have relevant information and cannot be participating solely to speak about an individual's character. The investigator will provide

periodic updates to the Title IX Officer, particularly regarding any emerging needs for the Reporting Party or Responding Party for additional safety or remedial measures and regarding estimated timelines.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial and fair, and all individuals will be treated with appropriate sensitivity and respect. As described in Section IV. Privacy vs. Confidentiality, the investigation will be conducted in a manner that is respectful of individual privacy concerns.

The college will seek to complete the investigation phase within 20 (twenty) calendar days of initiating the investigation, but this time frame may be extended depending on the complexity of the circumstances of each case. At the conclusion of the investigation, the investigative report will be forwarded to the Title IX Officer and will follow the relevant procedures for Formal Resolution depending on whether the Responding Party is a student, faculty member, or staff member.

Information gathered during the review and investigation will be used to evaluate the responsibility of the Responding Party, provide for the safety of the Reporting Party and the college campus community, and impose remedies as necessary to address the effects of the conduct cited in the report. At the conclusion of the investigation, the college will notify all parties that the investigation is complete and provide information about next steps in the process.

Based on the information gathered in the initial Title IX Review and/or full investigation, the college will take appropriate measures designed to end the misconduct, prevent its recurrence and address its effects.

The Title IX Officer will document each report or request for assistance in resolving a case involving charges of sexual misconduct, whether formal or informal, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

## Appendix A: Procedures for Resolving Complaints Against a Student

- A. Preliminary Concerns
  - a. Timing of Reports
  - b. Jurisdiction
  - c. Effect of Criminal Proceedings
  - d. Effect of Pending Complaint on Responding Party
  - e. Amnesty for Alcohol and Other Drug Use
  - f. Advisors
  - g. Agreements Not Recognized by the College
  - h. Time Frames
  - i. Communications
  - j. Standard of Proof
  - k. Records
- B. Initiating a Report
- C. Information for Reporting Party and Notice of Investigation
- D. Title IX Review
- E. Safety and Remedial Measures
- F. Withdrawal of Complaint
- G. Summary of Resolution Options
  - a. Informal, Remedies-Based Resolution
  - b. Formal Resolution
- H. Responding to Report
  - a. Information for Responding Party and Intake Meeting
  - b. Acceptance of Responsibility
- I. Formal Resolution Procedures
  - a. Investigation Phase
    - i. Investigator
    - ii. Investigation Process
    - iii. Investigative Report
    - iv. Findings of the Investigator
    - v. Appeal of the Findings of the Investigator
    - vi. Distribution to Parties
  - b. Sanction Phase: Sexual Misconduct Board
    - i. Composition of Board
    - ii. Review of Investigative Report and Findings
    - iii. Review of Other Relevant Information and Opportunity to Respond
    - iv. Range of Sanctions
    - v. Deliberations of Sexual Misconduct Board
    - vi. Notice of Outcome
  - c. Appeal of Sanction
    - i. Eligibility, Timeline, and Filing Procedures
    - ii. Appeal of Sanction Procedures
    - iii. Appeal Decision and Notification

Bates College has established the Sexual Misconduct and Harassment Policy that articulates the college's community standards and includes definitions of prohibited conduct and key concepts. This policy also outlines the resources and reporting options available to the college community and methods of addressing cases involving sexual harassment, sexual violence, stalking, or intimate partner violence or other sexual misconduct. This appendix details the specific procedures for resolving a report of sexual misconduct or harassment where a student is identified as the Responding Party.

## **A. Preliminary Concerns**

### **a. Timing of Reports**

Individuals are encouraged to report sexual harassment, sexual violence, stalking, and intimate partner violence as soon as possible in order to maximize the college's ability to respond promptly and effectively. The college does not, however, limit the time frame for reporting. If the Responding Party is no longer a current student, the college may not be able to take disciplinary action against the Responding Party, but will still seek to meet its Title IX obligations by taking steps to end the harassment, prevent its recurrence, and address its effects.

A current student is defined as someone who has matriculated and has not formally severed recognized student status with the college. A student retains this status throughout the student's career at the college, including academic terms, scheduled vacations, summer months, and periods of leave or off-campus study.

### **b. Jurisdiction**

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

### **c. Effect on Criminal Proceedings**

The college encourages individuals to pursue criminal action for incidents of sexual harassment, sexual violence, stalking, and intimate partner violence that may also be crimes under Maine criminal statutes. The college's policy, definitions, and standard of proof may differ from Maine criminal law. The college will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation using the procedures outlined here except at the request of local law enforcement during the initial evidence gathering stages of a criminal investigation. Neither law enforcement's decision whether or not to prosecute a Responding Party nor the outcome of any criminal prosecution are determinative of whether sexual harassment, sexual violence, stalking, or intimate partner violence has occurred under this policy.

### **d. Effect of Pending Complaint on Responding Party**

If a Responding Party elects to withdraw from the college after an investigation has commenced but prior to a final resolution, the transcript of the Responding Party will reflect a withdrawal and shall contain the notation "Voluntary withdrawal with disciplinary charges pending." A Responding Party electing to withdraw from the college under these conditions shall have no right to apply for readmission. In exceptional circumstances, the Vice President for Student Affairs and Dean of Students may grant permission to apply for readmission to a withdrawing or withdrawn student. If

such special permission is granted, readmission will not be automatic and may be subject to such terms and conditions as the Vice President for Student Affairs may deem to be appropriate.

e. Amnesty for Alcohol and Other Drug Use

The college seeks to remove any barriers to reporting. An individual who reports sexual harassment or misconduct, either as a Reporting Party or a third party, will not be subject to disciplinary action by the college for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The college may, however, initiate an educational discussion or pursue other educational or therapeutic remedies regarding alcohol or other drugs for those individuals.

f. Advisors

The Reporting Party and Responding Party have the right to be assisted by an advisor of their choosing. Title IX Officer and the Vice President for Student Affairs and Dean of Students maintain a list of available advisors who receive annual training on the issues related to sexual violence and sexual harassment and on the Bates Sexual Misconduct and Harassment Policy and resolution procedures. The college encourages Reporting Parties and Responding Parties to select an advisor who has received training, but the final decision rests with each individual. Parties may share information related to a complaint with individuals that may support or assist them in navigating the resolution process and presenting their case.

An advisor serves to guide the student through the all phases of the process and may accompany the student to any meeting throughout the process. The role of the advisor is one of support, but not active participation. The advisor should assure that the student clearly understands all questions asked, and that the student clearly communicates their account of events. The advisor may also help the student identify appropriate witnesses or evidence. The advisor's role during an investigatory interview or subsequent meetings with the investigator(s) is as a silent observer. The advisor may not make arguments, ask questions, or speak for a Reporting Party, Responding Party, or third party. Similarly, the advisor may not interact with the investigator during the course of an investigation. The advisor may request a recess during an investigatory interview or meeting to consult with the student, but not while any question is pending before the student. Any advisor who becomes disruptive in any meeting may be removed from that that meeting and/or prohibited from participation in the remainder of the process. The advisor may accompany a student to any meeting with an investigator, with the Title IX Officer or her/his designee, or with the Sexual Misconduct Board. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. Scheduling of interviews and meetings will not be significantly delayed due to the lack of availability of the advisor.

Any advisor selected who has not been trained by the college must attend a meeting with the Title IX Officer, or her/his designee, prior to attending any case related meeting in order to understand the college's processes and the advisor's role. A Reporting Party, a Responding Party, or any witness for the case at hand may not serve as an advisor to any other party involved in the investigation.

Witnesses called to speak with an investigator as part of this process also have the right to bring an advisor of their choosing to all meetings related to the investigation. This advisor must be a member of the Bates community (current faculty, staff, or student) and serves in a role similar to that described above.



g. Agreements Not Recognized by the College

Other than a judicial order, the college will not recognize agreements between the Reporting Party and Responding Party in which the college did not participate unless reviewed and approved by the Title IX Officer.

h. Time Frames

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

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

Where the Responding Party is a second semester senior, the college may withhold that student's Bates College degree pending conclusion of the sexual misconduct proceedings. The college reserves the right to restrict a student's participation in college programs while an investigation is pending.

i. Communications

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

j. Standard of Proof

The investigator will determine the Responding Party's responsibility by the preponderance of the evidence standard which is whether the information provided supports a finding that it is "more likely than not" that the Responding Party is responsible for the alleged violation.

k. Records

The investigative report, including all documents, information, and other evidence, and the documentation regarding any finding, sanction, and appeal will serve as the formal record of the proceedings and will be maintained by the Title IX Officer as part of the Responding Party's conduct record.

If a student has been found responsible for a violation of this policy, such records may be used in reviewing any further conduct issues consistent with this policy and the Code of Student Conduct.

All records shall be held and reported according to the College Policy on Reporting Student Disciplinary Matters.

## B. Initiating a Report

Any person who has experienced an incident of sexual misconduct or harassment, as defined in the Sexual Misconduct and Harassment Policy, may file a report against a Bates College student responsible for that conduct. Students filing reports may request that the college initiate its formal resolution option, its informal, remedies-based resolution option or request the college take no action.

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

Where a Reporting Party requests that their name or other identifiable information not be shared with the Responding Party or that no formal action be taken, the college will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all Bates community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before disciplinary action is taken against a Responding Party. In making this determination, the college may consider:

- The seriousness of the alleged conduct;
- The respective ages and roles of the Reporting Party and Responding Party;
- Whether there have been other complaints or reports of harassment or misconduct against the Responding Party;
- The rights of the Responding Party to receive notice and relevant information before disciplinary action is sought;
- If circumstances suggest there is an increased risk of the Responding Party committing additional acts of sexual misconduct or other violence;
- Whether the Responding Party has a history of arrests or records from a prior school indicating a history of violence;
- Whether the alleged perpetrator threatened further sexual violence or other violence against the student or others;
- Whether under the circumstances there is a continuing threat to the community;
- Whether the sexual misconduct was committed by multiple perpetrators;
- If the circumstances suggest there is an increased risk of future acts of sexual misconduct under similar circumstances;
- Whether the sexual violence was perpetrated with a weapon; and
- Whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

The Title IX officer retains the authority to make the final decision regarding which method of resolution shall be used. In making this decision, the Title IX officer shall assess the above factors, consult with the Title IX team, and consider the Reporting Party's preferred means of resolution.

The Title IX Officer in consultation with the Title IX Team will evaluate requests for confidentiality.

### **C. Information for the Reporting Party and Intake Meeting**

After receipt of the report, the Title IX Officer or a member of the Title IX Team will conduct an intake meeting with the Reporting Party. At this meeting, the person conducting the intake will inquire into the nature of the report and allegations of misconduct. The Reporting Party will be informed of all safety and remedial measures and resolution options available under this policy and encouraged to select an advisor who has received training from the college. The Reporting Party will be informed of the prohibition against retaliation and instructed not to destroy any potentially relevant documentation or evidence in any format. The Reporting Party will also be offered support resources on and off campus as described in Section VII of this policy. The Reporting Party will be given a copy of the Sexual Misconduct and Harassment Policy as well as a brochure containing pertinent information regarding the policy, resolution procedures, and resources.

### **D. Title IX Review**

In every report of sexual harassment or misconduct, the college will make an immediate assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. These steps may include interim protective measures to provide for the safety of the individual and the campus community.

As part of the initial assessment of the facts, the college will:

- Assess the nature and circumstances of the allegation;
- Assess the need to address immediate physical safety and emotional well-being;
- Notify the Reporting Party of the right to contact law enforcement and seek medical treatment;
- Notify the Reporting Party of the importance of preservation of evidence;
- Enter the report into the college's daily crime log;
- Assess the reported conduct for the need for a timely warning under the Clery Act;
- Provide the Reporting Party with information about on- and off-campus resources;
- Notify the Reporting Party of the range of interim accommodations and remedies;
- Provide the Reporting Party with an explanation of the procedural options, including remedies-based resolution and formal resolution;
- Assess for pattern evidence or other similar conduct by Responding Party;
- Discuss the Reporting Party's expressed preference for manner of resolution and any barriers to proceeding; and
- Explain the college's policy prohibiting retaliation.

### **E. Safety and Remedial Measures**

Upon receipt of a report, the Title IX Officer, in consultation with the Title IX Team, will review the allegations and determine the necessity and scope of any interim measures to prevent further acts of

harassment, misconduct, or retaliation and to provide a safe educational and work environment. Potential remedies, which may be applied to the Reporting Party and/or the Responding Party, include:

- Providing access to counseling services and assistance in setting up an initial appointment, both on and off campus;
- Imposing a No Contact Order between parties;
- Rescheduling of exams and assignments (in conjunction with appropriate faculty);
- Providing alternative course completion options (with the agreement of the appropriate faculty);
- Changing a class schedule, including the ability to take deferral, drop a course without penalty or transfer sections (with the agreement of the appropriate faculty);
- Changing a work schedule or job assignment;
- Changing an on-campus housing assignment;
- Providing assistance from college support staff in completing housing relocation;
- Limiting an individual's or organization's access to certain college facilities or activities pending resolution of the matter;
- Providing a voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Providing assistance with transportation needs;
- Imposing interim suspension or leave; and
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

## **F. Withdrawal of Complaint**

Prior to the completion of the resolution options described in this policy, the Reporting Party may withdraw the sexual misconduct complaint. Withdrawal of the complaint will, in most circumstances, end any investigation or process taking place under this policy. The college reserves the right to move forward with a complaint, even after the Reporting Party withdraws it, in order to protect the interests and safety of the college community.

## **G. Summary of Resolution Options**

### **a. Informal, Remedies-Based Resolution**

Informal resolution is a remedies-based, non-judicial approach designed to eliminate a hostile environment without taking formal disciplinary action against a Responding Party.

Where the Title IX Review concludes that informal resolution may be appropriate, the college will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Reporting Party's access to the educational activities at the college and to eliminate a hostile environment. Examples of protective remedies are detailed in the Interim Measures section above. Other potential remedies include targeted or broad-based educational programming or training, direct confrontation of the Responding Party and/or indirect action by the Title IX Officer or the college. Depending on the form of informal resolution used, it may be possible to maintain the Reporting Party's anonymity.

The college will not compel a Reporting Party to engage in mediation or a restorative justice process, to directly confront the Responding Party, or to participate in any particular form of informal resolution. Mediation or restorative practices, even if voluntary, may not be used in cases involving sexual violence or assault. The decision to pursue informal resolution will be made when the college has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in informal resolution is voluntary, and a Reporting Party can request to end informal resolution at any time.

The Title IX Officer will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within thirty (30) business days of the initial report.

b. Formal Resolution

Disciplinary action against a Responding Party may only be taken through the Formal Resolution process. The Formal Resolution process contains three phases: Investigation, Sanction, and Appeal. This process is outlined in detail below.

## H. Responding to Report

a. Information for Responding Party and Notice of Investigation

After receipt of the report, the intake meeting with the Reporting Party, the Title IX Review, and a determination to pursue formal resolution, the Title IX Officer or a member of the Title IX Team shall issue a Notice of Investigation. The Notice of Investigation will outline the nature of the complaint and allegation of misconduct and the procedures for the resolution of the report. The Responding Party will be encouraged to select an advisor who has received training from the college. The Responding Party will be informed of the prohibition against retaliation and instructed not to destroy any potentially relevant documentation or evidence in any format. The Responding Party will be given a copy of the Sexual Misconduct and Harassment Policy. The Responding Party will also be offered support resources on and off campus as described in Section VII of this policy. The Title IX Officer or their designee also may conduct an intake meeting with the Responding Party if deemed appropriate. If the Responding Party fails to meet and cooperate with the Title IX Officer, the investigator, or any other person during this process, the resolution of the complaint will proceed without input from the Responding Party.

b. Acceptance of Responsibility

At any point in the process, the Responding Party may choose to accept responsibility for all or part of the alleged misconduct. If the Responding Party accepts responsibility for the alleged misconduct, the process may, but will not necessarily, proceed to the investigation phase. The Title IX Officer may proceed directly to the sanction phase to determine an appropriate sanction for the Responding Party. If the Responding Party disputes any aspect of the allegations, the matter will proceed to an investigation.

## I. Formal Resolution Procedures

### a. Investigation Phase

#### i. Investigator

The Title IX Officer, in consultation with the Title IX Team, will designate an investigator of their choosing, who has specific training and experience investigating allegations of sexual harassment and sexual misconduct, to conduct a thorough, impartial, and fair investigation. The college will designate a trained investigator who may be an employee of the college or an external investigator engaged to assist the college in its fact gathering and determination of a finding. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigation is designed to provide a fair and reliable gathering of the facts. All individuals in the investigation, including the Reporting Party, the Responding Party and any third-party witnesses, will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the investigation will safeguard the privacy of the individuals involved.

#### ii. Investigation Process

The investigator will coordinate the gathering of information from the Reporting Party, Responding Party, and other individuals or entities with relevant information regarding the report using any of the following processes. The investigator will share with the Reporting Party and Responding Party for comment or rebuttal information and documentation considered material to the findings related to the report. The investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the Responding Party. The Reporting Party and Responding Party will have an equal opportunity to be heard, to submit evidence, and to identify witnesses who may have relevant information. The investigation phase will typically be completed within twenty (20) calendar days. Given the availability of witnesses or complexity of the circumstances, this time frame may be extended as necessary to ensure the integrity and completeness of the investigation. The investigator will provide periodic updates to the Title IX Officer, particularly regarding any emerging needs that would require additional protective or supportive measures for the Reporting Party or Responding Party or regarding any adjustments to estimated timelines.

Information gathered during the investigation will be used to evaluate the appropriate course of action, provide for the safety of the individuals and the campus community, and impose remedies as necessary to address the effects of the conduct cited in the report, in addition to being used to determine a finding.

##### 1. Document/Records Review

In addition to reviewing any documents submitted by the Reporting Party and Responding Party, the investigator will try to obtain such other physical or medical evidence relevant to the investigation as the investigator determines, in his or her judgment, to be necessary, including but not limited to documents, police records, electronic or other record of communications between the parties or witnesses, video or audio recordings, records or other relevant information. In obtaining such evidence, the investigator will comply with applicable laws and college policies.

## 2. Site Visits

The investigator may visit relevant sites or locations and record observations through written or photographic documentation.

## 3. Reporting Party and Responding Party Interviews

The investigator will interview the Reporting Party and the Responding Party separately and may interview one or both more than once as necessary. The Reporting Party and Responding Party may be accompanied by their respective advisors.

## 4. Witness Interviews

The investigator will make a good faith effort to contact and interview any witnesses identified by the parties or in the documentation, including those no longer at the college. The investigator may also interview any other individual he or she finds to be potentially relevant to the allegations of the report. The investigator will inform each witness or other individual interviewed that they are prohibited from retaliating against the Reporting Party and Responding Party or other witnesses.

## 5. Experts

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

## 6. Prior Sexual History, Bad Acts, or Pattern Evidence

In general, in a case where the Responding Party raises consent as a defense, any prior consensual relationship between the parties may be deemed relevant to assess the manner and nature of communications between the parties, but is not necessarily determinative. As noted in the Sexual Misconduct and Harassment Policy, a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Generally, prior sexual history of the Reporting Party or Responding Party will not be considered relevant to an investigation. However, in limited circumstances, such as pattern evidence, it may be relevant in the determination of responsibility or, in the case of Responding Party, the determination of a sanction. Additionally, a prior finding (post appeal rights) of responsibility for a similar act of sexual misconduct will always be deemed relevant and may be considered in making a determination as to responsibility and/or assigning of a sanction.

If either party wishes to bring forth information concerning the other party's sexual history, bad acts, or pattern evidence, such requests must be made during the course of the investigation to the investigator, who is responsible for determining its relevance.

### iii. Investigative Report

At the conclusion of the investigation, the investigator will prepare a written investigative report summarizing and analyzing the relevant facts determined through the investigation, referencing any supporting documentation or statements. In preparing the

report, the investigator will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. In general, the investigator may redact information that is irrelevant, more prejudicial than probative, or immaterial. The investigator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts. Further, the investigator may redact any statements regarding general reputation or any character trait. The investigative report may include summaries of interviews with the Reporting Party, Responding Party, third-party witnesses, experts, and any other individuals with relevant information, photographs of relevant sites or physical evidence, electronic records and forensic evidence. The investigator may provide a summary of impressions including context for the evidence.

Before the report is finalized, the Reporting Party and Responding Party will be given the opportunity to review their own statement(s) and other relevant information collected during the investigation, including the summaries of statements of the other party and any witnesses.

A Reporting Party or Responding Party may submit any additional written comment or evidence to the investigator within five (5) business days of notice of the opportunity to review the relevant portions of the investigative file.

Upon receipt of any additional information by the Reporting Party or Responding Party, or after the five (5) day comment period has lapsed without comment, the investigator will finalize the report and make a finding as to whether a policy violation has occurred.

The report will be submitted to the Title IX Officer. The Title IX Officer will certify that the report is complete, contains findings as to whether a policy violation has occurred and a sufficiently detailed factual summary supporting those findings.

iv. Findings of the Investigator

The investigative report will include a determination by the investigator as to whether the Responding Party is responsible for a violation or violations of the Sexual Misconduct and Harassment Policy using the preponderance of the evidence standard. This determination will be accompanied by a rationale.

v. Distribution to Parties

The Title IX Officer or a member of the Title IX Team will provide the Reporting Party and Responding Party with a final copy of the investigative report and the findings and will inform them of the next steps in the process including the option to appeal, if applicable.

Should the Responding Party be found not responsible for a violation of the Sexual Misconduct and Harassment Policy by the investigator, the Reporting Party retains the option to appeal on limited grounds using the procedures described in the Appeal of Findings of the Investigator section below. If an appeal is not filed, the finding shall be considered final and the Title IX Officer will draft a Notice of Outcome.

Should the Responding Party be found responsible for one or more violations of the Sexual Misconduct and Harassment Policy by the investigator, the case will proceed to the Sanction Phase. Either party may opt to appeal the findings prior to the start of the



Sanction Phase on limited grounds using the procedures described in the Appeal of Findings of the Investigator section below.

vi. Appeal of Findings of the Investigator

1. Eligibility, Timeline, and Filing Procedures

Either the Reporting Party or Responding Party may file an appeal of the findings of the investigator within three (3) calendar days of receipt of the investigative report using the procedures outlined below. Appeals must be filed with the Vice President for Student Affairs/Dean of Students (hereafter "Vice President"), who serves as the appeals officer. If no appeal of the investigator's findings is filed within a timely fashion, the findings of the investigator shall be considered final and binding on all of the parties and may not be appealed after the sanctioning phase of the procedure.

Dissatisfaction with the findings is not grounds for appeal. Appeals may be based only on one or more of the following grounds:

- a procedural error (failure to follow proscribed policy and/or procedures) that may have had a prejudicial effect upon the outcome of the proceedings;
- an evidentiary error, such as refusal to hear material evidence or reliance upon clearly inappropriate and/or prejudicial evidence, that may have had an effect upon the outcome of the proceedings;
- new evidence that was discovered after the investigation was completed and could not have been discovered previously that may have an effect upon the outcome of the proceedings;
- the investigator's findings were arbitrary and capricious; or
- evidence of conflict of interest, bias, fraud or misconduct on the part of the investigator.

The appeal shall consist of a concise and complete written statement outlining the facts that support the available grounds for the appeal.

If the appeal is properly filed, the other party will be given the opportunity to review the written appeal and respond to it in writing to the Vice President. Any response by the other party must be submitted to the Vice President within three (3) calendar days from being provided the appeal. If both parties file an appeal, the appeal documents from each party will be considered together in one appeal review process.

The receipt of the appeal and any response to the appeal will be acknowledged in writing (which can include email).

Should the Vice President be unable to serve as the appeals officer, they may designate another trained appeals officer to serve in their stead.

2. Appeal of Findings of Investigator Procedures

The appeal of the investigator's findings will be conducted in an impartial manner by the Vice President. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination is presumed to have been decided reasonably and appropriately. The appeal is not a *de novo* review of the underlying matter. The decision shall affirm the original findings of the investigator unless the Vice President sustains one of the grounds for appeal, in which case the Vice President will refer the case to the original or new investigator for reconsideration as appropriate.

Appeals are not intended to be full rehearing of the complaint (*de novo*). This is not an opportunity for the Vice President to substitute their judgment for that of the original investigator merely because they disagree with the findings. Appeals decisions are to be deferential to the original investigator except where one of the stated grounds above has been established.

### 3. Appeal Decision and Notification

The Vice President will generally make all appeal decisions within three (3) calendar days of receipt of both the appeal and all responses to it, if any.

The appeal decision will include a rationale and shall be presented simultaneously in writing to both the Reporting Party and Responding Party by the Title IX Officer or a member of the Title IX Team.

The decision of the Vice President upon an appeal of the findings of the investigator shall be final.

### b. Sanction Phase: Sexual Misconduct Board

After all appeals of the findings have been heard, should the Responding Party be found responsible for a violation of the Sexual Misconduct and Harassment Policy by the investigator, the case will proceed to the Sanction Phase where the Sexual Misconduct Board will review the investigative report to determine and impose an appropriate sanction. The Board's role is to determine the sanction given the findings presented in the investigative report. The Board will not consider challenges to the findings nor will it consider new evidence. Generally, the Board shall meet to determine the appropriate sanction within five (5) business days of the distribution of the investigative report or the ruling on all appeals if an appeal is filed.

#### i. Composition of Board

The Sexual Misconduct Board shall be composed of a pool of Bates staff members appointed by the President through a selection process determined by the Title IX Officer in consultation with the Title IX Team. For any given case, three members of the pool will be selected to comprise the Board. These three members shall be voting members of the Board. The Sexual Misconduct Board will be chaired by the Associate Dean of Students for Student Support and Community Standards or their designee; the chair shall not vote. All members of the Sexual Misconduct Board shall be trained annually regarding the dynamics of sexual misconduct, the appropriate manner in which to receive and evaluate sensitive information, the manner of deliberation, the application of the preponderance of the evidence standard, relevant sanctioning precedent (which shall inform but not bind the

Board), and the college's policies and procedures. The training shall also stress the importance of confidentiality and privacy of all parties.

ii. Review of Investigative Report and Findings

The Sexual Misconduct Board shall have access to the investigative report, including the findings, and all related documents to review prior to making a decision on an appropriate sanction. All documents provided to the Board shall have all personally identifiable information for all students involved redacted.

After reviewing the report and finding, if the Board feels that more information is required, they may ask the investigator for further clarification.

iii. Review of Other Relevant Information and Opportunity to Respond

The Sexual Misconduct Board shall have access to other relevant information in the Responding Party's student file, including prior student conduct history. This information shall have personally identifiable student information redacted and be prepared for review by the Sexual Misconduct Board by the chair. The Responding Party shall have access to this information prior to its presentation to the Board and shall have an opportunity to respond via a written statement to be provided to the Board. Only information related to the information presented from the Responding Party's student file shall be permitted in this statement.

The Reporting Party and Responding Party shall have the opportunity to present a statement to the Board describing the impact of the case on them. This statement may be presented to the Board in writing or in person. If presented in person, the Board will not ask any questions of the individual present. Any advisor who may be present may not make any statements to the Board. If both the Reporting Party and Responding Party wish to make in-person statements to the Board, they shall not be present in the room together. To the extent either party requires support in preparing such a statement, the college will provide assistance.

iv. Range of Sanctions

The Sexual Misconduct Board may impose any sanction or combination of sanctions defined in the Code of Student Conduct, including probation, suspension, and expulsion. See Appendix D for a complete list of potential sanctions.

Any student found responsible for a sexual assault violation will likely face a recommended sanction of suspension or expulsion.

Any student found responsible for a non-consensual sexual contact violation (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

Any student found responsible for any other violation under the Sexual Misconduct and Harassment Policy will likely receive a recommended sanction ranging from warning to

expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

The Board reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. The Board will not deviate from the range of recommended sanctions unless compelling justification exists to do so.

v. Deliberations of Sexual Misconduct Board

After a thorough review of the investigative report, findings, other related documents and relevant information, and any responses or statements from the Reporting Party and Responding Party, the Sexual Misconduct Board shall deliberate regarding the appropriate sanction(s). The sanction shall be determined by a majority vote of the voting members of the Board. Should there be a tie, the chair shall cast the deciding vote.

The Sexual Misconduct Board will present the sanction decision and the rationale for it to the Title IX Officer.

vi. Notice of Outcome

The final written Notice of Outcome shall be simultaneously provided in writing to both the Reporting Party and the Responding Party by the Title IX Officer or a member of the Title IX Team. The college will also provide written notice, at the same time to both parties, of any change in the outcome upon appeal.

Both parties have the right to be informed of the outcome. The Notice of Outcome will include the findings as to whether there was a policy violation, the rationale for the result, and a brief summary of the evidence on which the decision is based, as appropriate. In addition, the Responding Party will be fully informed of any sanctions. For reports involving sexual violence, the Reporting Party will be fully informed of any sanctions and remedies that directly relate to Reporting Party, including information about the Responding Party's presence on campus (or in a shared class or residence hall), that may help a Reporting Party make informed decisions or work with the college to eliminate harassment and prevent its recurrence. For all other reports under this policy, the Reporting Party will be informed of only those sanctions that directly relate to the Reporting Party, consistent with FERPA and other applicable law. The notice shall include information regarding the right to appeal the outcome for both the Reporting Party and the Responding Party.

Sanctions imposed are implemented immediately upon presentation of the Notice of Outcome, subject to reversal or modification upon appeal.

c. Appeal of Sanction

i. Eligibility, Timeline, and Filing Procedures

Either the Reporting Party or the Responding Party may file an appeal of the sanction within seven (7) calendar days of receipt of the Notice of Outcome using the procedures

outlined below. Appeals must be filed with the Vice President for Student Affairs and Dean of Students (hereafter "Vice President"), who serves as the appeals officer.

Dissatisfaction with the sanction is not grounds for appeal. Appeals of the sanction may be based only on one or more of the following grounds:

- a procedural error that may have had a prejudicial effect upon the outcome of the Sexual Misconduct Board proceedings;
- new evidence that was discovered after the investigation was complete and could not have been discovered previously that might have had an effect upon the sanction;
- evidence of conflict of interest, bias, misconduct, or fraud on the part of one or more members of the Sexual Misconduct Board; or
- the sanction imposed on the Responding Party is grossly inappropriate.

The appeal shall consist of a concise and complete written statement outlining the facts that support the available grounds for the appeal. The only question before the Vice President during the appeal of the sanction is whether the appropriate sanction was imposed by the Sexual Misconduct Board.

If the appeal is properly filed, the other party will be given the opportunity to review the written appeal and respond to it in writing to the Vice President. Any response by the other party must be submitted to the Vice President within three (3) calendar days from being provided the appeal. If both parties file an appeal, the appeal documents from each party will be considered together in one appeal review process.

The receipt of the appeal and any response to the appeal will be acknowledged in writing (which can include email).

If for any reason the Vice President is unable to serve as the appeals officer, they may designate another trained appeals officer to serve in their stead.

## ii. Appeal of Sanction Procedure

The appeal of the sanction will be conducted in an impartial manner by the Vice President. During the appeal of the sanction, the findings of the investigator, as affirmed upon appeal, if any, shall be considered binding and shall not be revisited. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the sanction of the Sexual Misconduct Board is presumed to have been decided reasonably and appropriately. The appeal is not a *de novo* review of the Sexual Misconduct Board's determination. The decision shall affirm the sanction imposed by the Sexual Misconduct Board unless the Vice President sustains one of the grounds for appeal, in which case the Vice President will:

- Refer a case to the original or a new investigator if new evidence is presented or if there were prejudicial procedural errors; or
- Refer a case back to the Sexual Misconduct Board, with the same or different members as necessary, if there was evidence of bias, misconduct, or fraud or if the sanction is considered to be grossly inappropriate.

Appeals are not intended to be full rehearing of the sanctioning phase. This is not an opportunity for the Vice President to substitute their judgment for that the Sexual Misconduct Board merely because they would have imposed a different sanction. The decision of the Sexual Misconduct Board will be affirmed by the Vice President unless one of the specified grounds for appeal has been established.

iii. Appeal Decision and Notification

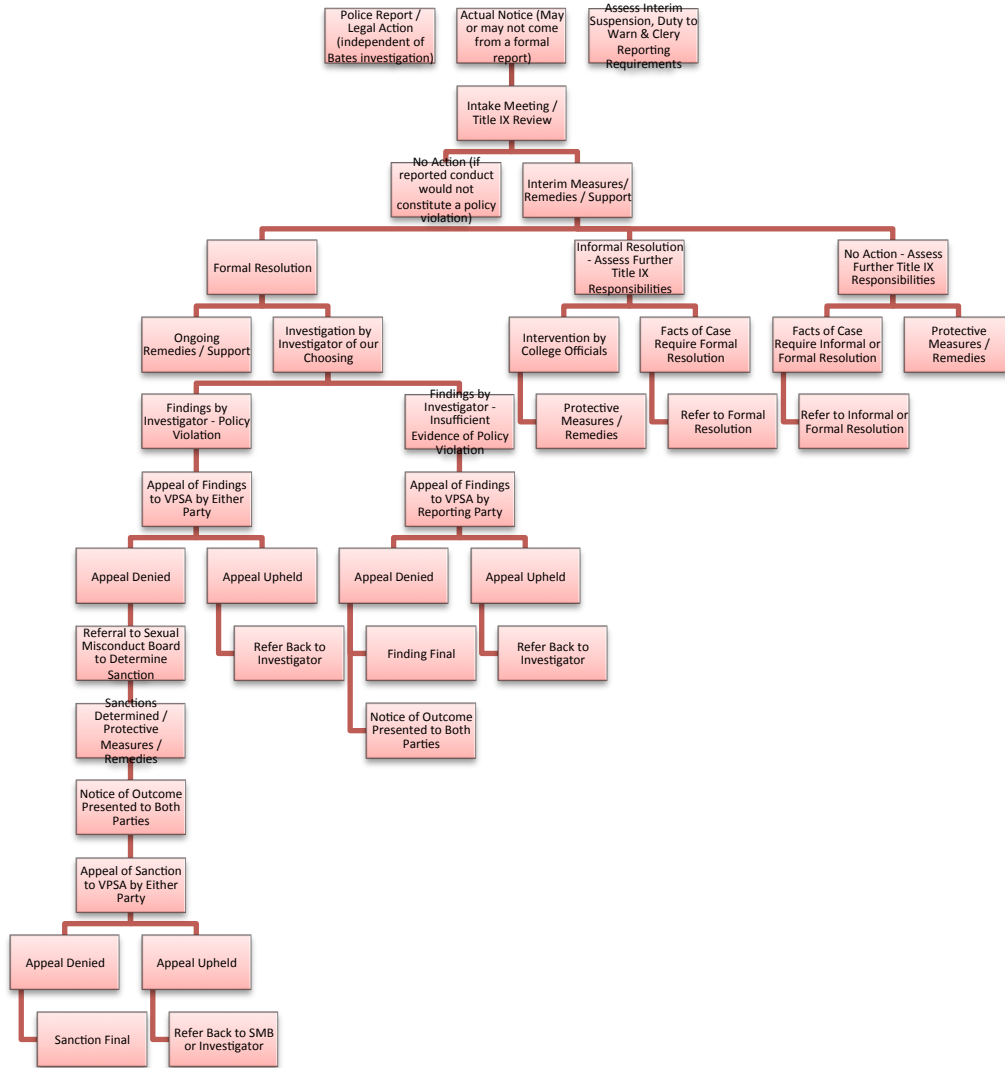
The Vice President will generally make a decision on the appeal of the sanction within five (5) calendar days of receipt of both the appeal and all responses to it, if any.

The appeal of the sanction decision will include a rationale and shall be presented simultaneously in writing to both the Reporting Party and Responding Party by the Title IX Officer or a member of the Title IX Team.

The decision of the Vice President upon review of the appeal of the sanction shall be final.

In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.

## Appendix B: Flow Chart of Procedures for Resolving Complaints Against a Student



## Appendix C: Summary of Rights

All members of the Bates community have the right to:

- Live, work, and learn at Bates free from gender-based discrimination;
- Be treated with respect, dignity, and fairness;
- Have their privacy protected by all individuals involved in the investigation and resolution of any report of sexual misconduct or harassment;
- File a report and have any report resolved promptly, fairly and thoroughly according to the Bates College Sexual Misconduct and Harassment Policy;
- Receive support throughout the resolution process;
- Be free from retaliation for making a report or participating in an investigation;
- Receive timely notice of meetings and equal access to information used in those meetings;
- Have an advisor or support person present at all meetings;
- Receive timely written notification of the outcome of any investigation, including sanctions, any changes to the outcome due to appeal, and when the outcome becomes final; and
- Appeal the finding and outcome as detailed in the Sexual Misconduct and Harassment Policy.

In addition, a Reporting Party has the right to:

- Choose whether to file a criminal complaint with local law enforcement and to receive assistance should they wish to do so;
- Receive interim support and reasonable protective measures to help them continue to live, work and learn at Bates;
- Choose whether they wish to participate in any formal investigative process; and
- Receive amnesty for minor drug or alcohol violations that occurred at the time of the incident.

Individuals have these rights regardless of your race, color, ethnicity, national origin, age, sex, gender identity or expression, sexual orientation, religion, or any other protected class.



## Appendix D: Possible Sanctions for Students Found Responsible for Violations

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

## Appendix E: List of Resources

### IN AN EMERGENCY

Emergency dispatch: 911

Bates Campus Safety and Security  
207-786-6111 | 207-786-6254 (non-emergency) | 245 College Street

Lewiston Police Department  
207-784-6421 | 171 Park Street, Lewiston

### FOR IMMEDIATE and ONGOING MEDICAL NEEDS

Bates Health Services  
207-786-6199 | 31 Campus Avenue

Central Maine Medical Center (SAFE kits available)  
207-795-2200 | 300 Main Street, Lewiston

Lewiston Family Planning  
207-795-4007 | 179 Lisbon Street, Lewiston

### FOR CONFIDENTIAL CONVERSATION & SUPPORT

Sexual Assault Victim Advocate (SAVA), Rebekah Snyder  
sava@bates.edu | 207-786-6996 | 161 Wood Street, 2<sup>nd</sup> floor

Bates Counseling and Psychological Services  
207-786-6199 | 31 Campus Avenue

Multifaith Chaplain, Brittany Longsdorf  
blongsdo@bates.edu | 207-786-8272 | 163 Wood Street, 2<sup>nd</sup> floor

Sexual Assault Prevention and Response Services (SAPARS)  
24-hour helpline: 800-871-7741

Safe Voices (domestic violence)  
24-hour helpline: 800-559-2927

### FOR PRIVATE REPORTING and RESOLUTION

Title IX Officer, Gwen Lexow  
glexow@bates.edu | 207-786-6445 | Lane Hall 202A

Deputy Title IX Coordinator for Students, Erin Foster Zsiga  
efoster@bates.edu | 207-786- 6215 | Lane Hall 110

Deputy Title IX Coordinator for Faculty, Áslaug Ásgeirsdóttir  
aasgeirs@bates.edu | 207-786- 6472 | Lane Hall 120

Deputy Title IX Coordinator For Staff, Shanna Hines  
shines@bates.edu | 207-786- 8388 | 215 College Street

Deputy Title IX Coordinator For Athletics, Melissa DeRan  
mderan@bates.edu | 207-786- 5954 | Alumni Gym #11

#### OTHER BATES RESOURCES

Bates Confidential Employee Assistance Program  
www.guidanceresources.com | 800-311-4327 | ID = BWELL

Financial Aid Assistance  
Wendy Glass | 207-786-6096 | Libbey Forum, Room 8

Visa and Immigration Assistance  
Shirley Govindasamy | 207-753-6948 | 215 College Ave., Rm. 222

#### OTHER OFF CAMPUS RESOURCES

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

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

Maine Human Rights Commission  
#51 State House Station, Augusta | 207-624-6290  
www.maine.gov/mhrc/

Maine Victim's Compensation Program  
Office of Attorney General  
6 State House Station, Augusta | 207-624-7882

Office for Civil Rights, US Department of Justice  
5 Post Office Square, 8<sup>th</sup> floor, Boston | 617-289-0111  
www2.ed.gov/about/offices/list/ocr

U.S. Equal Employment Opportunity Commission  
475 Government Center, Boston | 800-669-4000  
www.eeoc.org

## 24-HOUR HELPLINES

Tri-County Mental Health Services Crisis Center  
888-568-1112

Rape, Abuse, Incest National Network (RAINN)  
800-656-4673

National Domestic Violence Hotline  
800-799-7233

## WEBSITES

[bates.edu/sexual-respect](http://bates.edu/sexual-respect)  
[NotAlone.gov](http://NotAlone.gov)  
[knowyourix.org](http://knowyourix.org)