

APPENDIX B

RESOURCE GUIDE AND PROCEDURES FOR REPORTS AGAINST EMPLOYEES Revised 9/21/16

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I. INTRODUCTION

Hampshire College (the “College”) is committed to maintaining a safe and non-discriminatory learning, living, and working environment for all members of the College community. The College

prohibits Sexual Assault, Relationship Violence, Stalking, Sexual or Gender-Based Harassment, Complicity, and Retaliation (“Sexual Misconduct Violations”), as set forth in the Sexual Misconduct, Relationship Violence, and Stalking Policy (the “Policy”). This Appendix provides resources for counseling, support, and reporting (“Resources”) and sets forth the College’s procedures for reporting, investigating, and resolving violations of the Policy where an incident involving an Employee as a Respondent is reported to Hampshire College (“Procedures”). These Resources and Procedures should be read in the context of the Policy and capitalized terms used in this document are defined in the Policy.

II. COLLEGE AND COMMUNITY RESOURCES

A. Emergency Medical, Law Enforcement, and Crisis-Response Resources

1. Medical Assistance: An individual who experiences sexual assault or any other form of interpersonal violence is strongly encouraged to seek immediate medical attention at one of these locations:

- Cooley Dickinson Hospital, 30 Locust Street, Northampton, MA 01061 (413) 582-2000
- Baystate Medical Center, 759 Chestnut Street, Springfield, MA 01199 (413) 794-0000
- University Health Services at the University of Massachusetts, 150 Infirmery Way, Amherst, MA (413) 577-5000 (Visitors not affiliated with UMass will be seen on a fee for service basis only)

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

2. Law Enforcement: All Hampshire community members have the right to report any Sexual Misconduct Violations that may constitute a crime to law enforcement (“Police”). Police have unique legal authority to seek and execute search warrants, to collect forensic evidence that may

have been left at the scene or at other relevant locations, to obtain cell phone and electronic records, and to make an arrest when supported by probable cause to believe a crime has been committed. Police are also able to provide assistance in seeking Emergency Protective Orders (see below).

- Hampshire College Campus Police can be reached by calling “5555” (for emergencies) or (413) 559-5424 (for non-emergencies). Students seeking medical attention at Hampshire College Health Services can ask that Police be called on their behalf.
- Town of Amherst Police can be reached by dialing “911” (for emergencies) or (413) 259-3000 (for non-emergencies).

3. Crisis Resources (Support and Counseling): All Hampshire community members are urged to seek immediate emotional support after any Sexual Misconduct Violation. There are a number of resources and “hotlines” for crisis counseling, both at the College and in the local community. Some of these resources are able to maintain legally-protected confidentiality (see Section VI of the Policy). Crisis counselors can provide trauma-informed support and offer information about reporting options.

a. **Confidential** College Crisis Resources

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

- Employee Assistance Program (EAP) offered through LifeScope (800) 828-6025
- Center for Women and Community at UMass 24 hour hotline (413) 545-0800
- University of Massachusetts Health Services (413) 577-5000 (Visitors not affiliated with UMass will be seen on a fee for service basis only).

b. **Confidential** Community and National Crisis Resources

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

- Cooley Dickinson Hospital (413) 582-2000 (students may receive free transportation provided by Hampshire College Campus Police)
- Holyoke Medical Center (413) 534-2500
- Baystate Medical Center (413) 794-0000
- Center for Women and Community at UMass 24 hour hotline (413) 545-0800
- Safe Passage Domestic Violence Program 24 hour hotline (413) 586-5066 or (888) 345-5282 (toll-free).
- Rape and Incest National Network (RAINN) Hotline (800) 656-4673

<https://rainn.org/>

- Student and Employees may also visit their own health and counseling providers.

c. Private College Support Resources:

These individuals will disclose the reported incident to the Title IX Coordinator, but may be able to maintain the anonymity of the person seeking assistance:

- Emily Rimmer, Director for Queer/Women Services, Center for Feminisms (413) 559-5320
- Peer Chaplains, peerchaplains@hampshire.edu

d. Additional College Support Resources:

These individuals will disclose the reported incident and all available details of the report to the Title IX Coordinator, but will maintain the privacy of any resources provided:

- Office of the Dean of Students, Merrill Student Life Center, Second Floor, (413) 559-5412
- Resident Advisors, paraprofessional residence life staff who provide programming, located at <https://www.hampshire.edu/housing/fall-2015-resident-advisors>
- Sexperts, a group of students who serve as health peer educators, sexperts@hampshire.edu

B. Legal Resources

There are several resources that may help Students and Employees explore and understand their legal rights and options – both criminal and civil – following a Sexual Misconduct Violation.

- Campus Police Victim/Witness Assistance Center, located at https://www.mtholyoke.edu/campuspolice/victim_assistance
- Mass Legal Services <http://www.masslegalservices.org/FindLegalAid>
- Mass Legal Help <http://www.masslegalhelp.org/domestic-violence>
- Jane Doe Inc. http://www.janedoe.org/find_help/mass_legal_help
- Northwestern District Attorney's Office <http://northwesternda.org/victim-witness-assistance-unit>

The Northwestern District Attorney's Office Domestic Violence and Sexual Assault Unit works closely with police departments, courts and social service agencies to address the serious problem of domestic violence and sexual assault through prosecution of the offenders and the development

of strategies for prevention and intervention for the victims. If you are the victim of abuse and you notify the District Attorney's office, they may file charges against the Respondent. You will be assigned a victim witness advocate to keep you informed of court proceedings. You have the right to be notified of the proceedings and to submit a victim impact statement to the court at sentencing.

Complainants and Respondents may consult with an attorney or use one as a supporter during the College Resolution process. The College does not provide or arrange for attorneys.

C. Interim Remedial and Protective Measures

The Title IX Coordinators and Deputy Coordinators can provide Employees with information, support, and assistance and can arrange for a broad range of remedial and protective measures. As outlined in the Policy, remedial and protective measures, which may be temporary or permanent, may include no contact directives, separation orders, residence modifications, academic arrangements and support, work schedule or work location modifications, and other reasonable and appropriate measures. Complainants are entitled to receive information, assistance, and a broad range of support and remedial measures regardless of whether they choose to pursue criminal and/or College disciplinary resolution of a Sexual Misconduct Violation. For more information about such measures, please see the Remedial and Protective Measures section of the Sexual Misconduct, Relationship Violence, and Stalking Policy or contact the College's Title IX Coordinator.

III. REPORTING

The College encourages anyone who experiences or becomes aware of a Sexual Misconduct Violation to make an immediate report. There are multiple channels for reporting a Sexual Misconduct Violation. A Complainant may choose to report a Sexual Misconduct Violation to the College for Resolution under these Procedures, to law enforcement for potential criminal prosecution, to both, or to neither. Complainants may simultaneously pursue criminal and College disciplinary action. The College will support Complainants in understanding and assessing their reporting options.

A. Reporting to the College

The College strongly encourages anyone who has experienced, has knowledge of, or has witnessed a Sexual Misconduct Violation to make a report to the College. Under Title IX, once an institution has notice of a Sexual Misconduct Violation, it is required to (1) take immediate and appropriate steps to investigate or otherwise determine what occurred; (2) provide interim measures to support a Complainant; and (3) take prompt and effective action to end any Sexual Misconduct Violation that occurred; remedy its effects; and prevent its recurrence.

Making a report to the College does not require participation in any subsequent College proceedings, nor is a report required in order for an Employee to receive support or remedial measures. Individuals are encouraged to report Sexual Misconduct Violations by contacting the Title IX Coordinator or the Title IX Deputy Coordinator for Faculty, Staff and Visitors:

Diana Sutton-Fernández, Title IX Coordinator

dfernandez@hampshire.edu

(413) 559-6253

Office: Cole Science Center, Room 106

Dianna Williams, Title IX Deputy Coordinator for Staff, Faculty and Visitors

Assistant Director of Human Resources

dwilliams@hampshire.edu

(413) 559-5442

Office: Robert Stiles House

Employees should be aware that every employee, including supervisors, managers, and human resources professionals are “Responsible Employees” who are required to report to the Title IX Coordinator all relevant details about a Sexual Misconduct Violation. A Responsible Employee is any College Employee who is not a Confidential Employee. This is discussed in detail in Section VI.B. of the Policy.

Upon receipt of a report of a Sexual Misconduct Violation, the College will conduct an initial assessment and take any immediate action that may be necessary to protect the health and safety of the Complainant and the College community, as described in the Procedures below.

The College also offers access to confidential resources for individuals who are unsure about whether to report a Sexual Misconduct Violation or are seeking counseling or other emotional support in addition to (or without) making a report to the College. Section II above identifies confidential resources, both at the College and in the Amherst community. Section VI of the Policy also provides information about confidential resources.

Although there is no time limit for reporting Sexual Misconduct Violations to the College, the College’s ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with the College. If the Respondent is no longer a Student or an Employee, the College will provide reasonably appropriate remedial measures, assist the Complainant in identifying external reporting options, and take other reasonable steps to respond under Title IX.

B. Reporting to the Police

A Complainant has the right to notify Police or decline to notify Police. Anyone may contact the Police directly (see Section II.A.2, above). Alternatively, College community members may seek assistance in notifying Police from HR. HR can assist in setting up an initial meeting with Police. Filing a Police report does not obligate an Employee to participate in any subsequent criminal proceedings. A Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures should contact law enforcement directly:

- Hampshire College Campus Police can be reached by dialing “5555” (for emergencies) or (413) 559-5424 (for non-emergencies).
- Town of Amherst Police can be reached by dialing “911” (for emergencies) or (413) 259-3000 (for non-emergencies).

C. Preservation of Evidence

The College recognizes that making the decision to report a Sexual Misconduct Violation often takes time. Nevertheless, pending the decision to report, Employees are strongly encouraged to take immediate steps to preserve all evidence that might support a future report of a Sexual Misconduct Violation, a Protective Order, or an investigation by the Police, by the College, or both. Such evidence may include:

- A forensic sexual assault examination (within 72 hours);
- Any clothing, sheets or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Electronic exchanges (e.g., text messages, emails, and Facebook, Instagram, Snapchat or other social media posts, to the extent that they can be captured or preserved);
- Photographs (including photographs stored on smartphones and other devices); and
- Voice-mail messages and other physical, documentary and/or electronic data that might be helpful or relevant in an investigation.

Electronic and photographic evidence may be lost through the upgrade or replacement of equipment (including smartphones), software and/or accounts or may simply be lost to the passage of time or damage to the device.

D. Seeking a Protective Order

Where a Sexual Misconduct Violation is reported to the Police, it may be possible to obtain a court-ordered Protective Order. These Protective Orders may be issued if the judge or magistrate believes that there is an immediate threat to health or safety. For more information on Massachusetts law about see:

<http://www.masslegalhelp.org/domestic-violence/wdwgfh/chapter6-209a-protective-orders>

“Protective Orders” are separate and distinct from “No-Contact Directives” (described in Section VII.A. of the Policy). Protective Orders may be obtained only from a court of law and are enforceable anywhere in the United States; their violation may result in criminal charges.

In contrast, No-Contact Directives may be obtained from the Title IX Coordinator and are enforceable through the College. The Title IX Coordinator or Deputy Coordinators can explain the process for seeking a Protective Order and can escort a Student or Employee to the appropriate office in order to initiate a petition seeking a Protective Order.

IV. INITIAL RESPONSE AND TITLE IX ASSESSMENT

When a Complainant or witness reports a Sexual Misconduct Violation, the College will take immediate and appropriate steps to investigate or otherwise determine what happened and work to resolve the matter promptly and equitably. The first step in this process is called an initial assessment.

A. Initial Assessment

Upon receipt of a report, the Title IX Coordinator or Deputy Coordinator will conduct an initial assessment. As part of the initial assessment, the Title IX Coordinator or Deputy Coordinator will:

- Assess the Complainant’s safety and well-being and offer the College’s immediate support and assistance;
- Provide the Complainant with written information about on-campus and off-campus resources and the range of appropriate and available interim measures based on the status of the Complainant;
- Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- Inform the Complainant of the right to seek Alternative Resolution (where available) or Formal Resolution under these Procedures, and discuss the Complainant’s expressed preference for the manner of resolution and discuss any concerns or barriers to participating in any College investigation and resolution under these Procedures;
- Explain the College’s prohibition against Retaliation and that the College will take prompt action in response to any act of Retaliation;
- Assess the nature and circumstances of the report;

- Ascertain the ages of the Complainant and Respondent, if known, and, if either of the parties is a minor (under 18), contact the appropriate child protective services agency; and
- Assess whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

B. Requests to Maintain Privacy or Not Seek Disciplinary Action

Where a Complainant requests that personally identifying information not be shared with the Respondent, that no investigation into a particular incident be conducted and/or that no disciplinary action taken, the College will balance that request against the College's obligation to provide a safe, non-discriminatory learning, living and working environment for all community members, including the Complainant. This request may occur at any point after the report is made.

The Title IX Coordinator or Deputy Coordinator will evaluate the Complainant's request. When considering whether to honor a Complainant's request that no personally identifying information be shared with the Respondent or that no Investigation or disciplinary action be pursued, the College will consider the totality of circumstances, including:

- The impact of moving forward on the Complainant's well-being;
- The increased risk that the Respondent will commit additional acts of sexual or other violence, taking into consideration, among other matters, any known history of arrests, violence, or other reports of Sexual Misconduct Violations involving the Respondent, any threats of future violence made by the Respondent, and whether multiple perpetrators were involved in the reported incident;
- Whether the Sexual Misconduct Violation was perpetrated with the use or threat of use of a weapon, or involved physical violence or threat of physical violence;
- Whether the report reveals a pattern of Sexual Misconduct Violations;
- Whether the Complainant is or at the time was a minor;
- Whether the Sexual Misconduct Violation occurred while the Complainant was unconscious, physically helpless or unaware that the Sexual Misconduct Violations was occurring;
- Whether the Sexual Misconduct Violation was facilitated through the use of a "date rape" or similar drugs or intoxicants;
- Whether the College is able as a practical matter to pursue the investigation without the participation of the Complainant (e.g., whether there has been other relevant evidence of the Violation such as security cameras, other witnesses, or physical evidence.); and/or
- Whether other aggravating circumstances exist.

Where possible based on the facts and circumstances, the College will seek action consistent with the Complainant's request to maintain privacy and/or not conduct further Investigation or disciplinary action. If the College is able to honor the request, the College's ability to meaningfully investigate and respond to a report may be limited. The College may only be able to respond in more general ways such as providing targeted training or prevention programs or offering reasonably available remedial measures to the Complainant.

At any time, the Complainant who has initially requested to maintain privacy or declined to participate in an Investigation may choose to pursue Alternative or Formal Resolution where available. The College may also reopen and pursue a report where new or additional information becomes available.

There are times when the College may not be able to honor a Complainant's request in order to provide a safe, non-discriminatory environment for the College community. Where the balance of factors requires that further investigation be conducted, that disciplinary action be taken, or that the identity of the Complainant be disclosed, the College will inform the Complainant of its intent to investigate prior to commencing the investigation and/or of its intent to disclose the identity of the Complainant. In such cases, the College will make reasonable efforts to protect the privacy of the Complainant consistent with the needs of the Investigation and resolution of the matter, and will, to the extent possible, only share information with people responsible for handling the College's response; however an investigation normally involves speaking with the Respondent and others who may have relevant information about the incident and disclosing the identity of the Complainant may be necessary in those conversations.

The College will take ongoing steps to protect the Complainant from retaliation or harm and assist the Complainant in accessing support and safety services regardless of their level of participation or engagement with these Procedures.

Because the College is under a continuing obligation to address sexual and gender-based harassment and violence campus-wide, reports of Sexual Misconduct Violations (including reports that do not include personally-identifiable information) will also prompt the College to consider broader remedial action, such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

C. Determination after Assessment

These Procedures offer two forms of resolution for reports of a Sexual Misconduct Violation: (1) Formal Resolution, which involves investigation, and review and sanction (if applicable) by an

Adjudicator as described below; and (2) Alternative Resolution as described below, which includes a variety of informal options for resolving reports.

After the initial assessment, the Title IX Coordinator will determine whether the circumstances warrant proceeding to an investigation. The Title IX Coordinator may consult with Human Resources and legal counsel during the assessment. The determination as to how to proceed will be communicated to the Complainant in writing. Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution. A Respondent will be notified when the College takes action that would impact a Respondent, such as protective measures that restrict the Respondent's movement on campus, the initiation of an Investigation, or the decision to seek to involve the Respondent in Alternative Resolution, Investigation, or other Disciplinary Process.

Notice to the Respondent will include a written explanation of all available resources and options. The Respondent will also be offered the opportunity to meet to discuss those resources and options. The College will also provide the Respondent an opportunity to respond to such actions.

Following the initial assessment, during an Investigation, or at any point in the Disciplinary Process, Hampshire College may seek an Alternative Resolution that, as appropriate, endeavors to prevent future Sexual Misconduct Violations and address their effects without conducting or concluding, as applicable, a formal Disciplinary Process against a Respondent. Alternatively, if appropriate, the College may pursue an Investigation and Disciplinary Process.

V. FORMAL RESOLUTION

Formal Resolution is commenced when:

- A Complainant reports that an Employee has engaged in one or more Sexual Misconduct Violations and requests, at any time, an investigation; or
- Alternative Resolution does not resolve a reported Sexual Misconduct Violation and, in the Title IX Coordinator's discretion, an investigation of the reported Sexual Misconduct Violation is required; or
- At the conclusion of the assessment process described in Section IV of these Procedures, the Title IX Coordinator has determined, based upon a review of the totality of the circumstances, that investigation of the reported conduct is necessary to ensure the health and safety of the Complainant and/or other members of the College community, notwithstanding the Complainant's request that personally identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary

action be taken.

A. Investigation

Whenever Formal Resolution is commenced, Investigation will proceed as follows:

1. As a first step, the Title IX Coordinator or Deputy Coordinator will meet with the Complainant and Respondent, separately, to describe the process and resources available. The Respondent will be notified in writing (via email) of the report, with a summary of the allegations in the report and the potential violations at issue. The Complainant will also receive a copy of this notice.
2. The Title IX Coordinator or Deputy Coordinator will assign an investigator to conduct a prompt, thorough, fair, and impartial investigation of the report. Any individual designated as an investigator will receive annual training under Title IX and VAWA. The Investigator may consult with the Title IX Coordinator, Deputy Coordinators, or others during the Investigation as necessary. Both parties will be provided with the name of the assigned investigator. The Complainant and Respondent should inform the College of any actual bias or conflicts of interest in the choice of investigator.
3. During the Investigation, the Complainant and Respondent will have an equal opportunity to be heard, to submit information and corroborating evidence, and to identify witnesses who may have relevant information. The investigator will notify and seek to meet with all involved parties separately (e.g., the Complainant, the Respondent, and identified witnesses) and also will gather other evidence and information relevant to the determination as to whether or not a Policy violation has occurred. Witnesses must have information deemed relevant to the Investigation, as determined by the investigator, and cannot be participating solely to speak about an individual's character.
4. Medical and counseling records of a Complainant and Respondent are privileged confidential records that individuals are not required to disclose. However, these records may contain relevant and material information and a party may voluntarily chose to share such records with the investigator. Any records provided by a party become part of the file and are available to review by the other party.
5. Where there is evidence of a pattern of similar conduct by the Respondent or of violent acts or other related conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a Policy violation, this information may be deemed relevant to the determination of a Policy violation and/or in assigning a sanction. The determination of relevance will be based on an assessment of whether the previous or

subsequent incident was substantially similar to the conduct cited in the report, indicates a pattern of behavior and substantial conformity with that pattern, or is otherwise associated with the conduct cited in the report. Prior or subsequent conduct of the Respondent also may be admissible to prove intent, motive, or absence of mistake.

6. A Complainant's prior sexual history will never be considered as evidence of a person's reputation or character. Moreover, evidence related to prior sexual history is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges that consent was given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another questions raised by the report.
7. The investigator has the discretion to determine the relevance of any evidence and may determine that certain types of evidence should be included or excluded in the determination of responsibility. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the investigator during the interview stage will not be considered at a hearing. The investigator will communicate to the parties a deadline for submitting evidence.
8. Throughout the process, the Complainant and Respondent have the right to be accompanied by an advisor of their choice (referred to in this policy as a "supporter"). The supporter may be invited by the Complainant or Respondent to attend meetings, investigation interviews, and the hearing, and must follow the guidelines for supporters located in the Student Handbook (see <https://handbook.hampshire.edu/node/208>). The supporter may be any person, including an attorney, who is not otherwise a party or witness to the reported incident(s). While the supporter may be present, the supporter may not speak on behalf of a party, nor be disruptive to the meetings.
9. At the conclusion of the Investigation, the investigator will prepare an investigation report that summarizes the information gathered, outlines the contested and uncontested information, and includes a recommended determination of whether there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation of the Policy. In reaching this determination, the investigator may consult with the Title IX Coordinator and Human Resources. This report will include any other related and available documents such as campus police reports, statements, and other relevant materials.

10. Both the Complainant and the Respondent will be given the opportunity review the investigation report, identify any additional information or witnesses, and provide feedback or comment to the report.
11. The investigator will designate a reasonable time for review and response. Upon receipt of any additional information or comments, the investigator will issue a final investigation report.
12. Typically, the period from notice of an investigation through resolution (finding and sanction, if any) will not exceed sixty (60) calendar days. This time frame may be extended for good cause as necessary to ensure the integrity and completeness of the Investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for Hampshire College breaks or vacations, and to account for complexities of a case. Any extension of the time frame for resolution, and the reason for the extension, will be communicated to the parties in writing.
13. At the request of law enforcement, the College may agree to defer its Title IX Investigation until after the initial stages of a criminal investigation. The College will nevertheless communicate with the Complainant regarding the availability of remedial and protective measures and available courses of action under the Policy and these Procedures. Hampshire College will promptly resume its Title IX Investigation as soon as it is notified by law enforcement of the completion of its initial fact gathering.

B. Determining Responsibility and Sanctions

1. If the investigator determines that there is not sufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation of the Policy, the Complainant may accept or contest the recommended finding(s) by so notifying the Title IX Coordinator, in writing. If the Complainant accepts the recommended finding(s) of no responsibility, the process is concluded. If the Complainant contests one or more of the recommended finding(s), the Complainant may submit to the Title IX Coordinator a written statement explaining why the Complainant contests such finding(s), within three (3) business days of receiving the investigation report. The Title IX Coordinator will share the Complainant's statement with the Respondent, who will have three (3) business days to respond in writing to any such statement. The Title IX Coordinator will provide the final investigation report, together with any statements by the parties, to the Adjudicating Panel for further proceedings outlined below.
2. If the investigator determines that there is sufficient information, by a preponderance of the

evidence, to support a finding of responsibility for a violation of the Policy, the Respondent may accept or contest the recommended finding(s) by so notifying the Title IX Coordinator, in writing. If the Respondent contests one or more of the recommended finding(s), the Respondent may submit to the Title IX Coordinator a written statement explaining why the Respondent contests such finding(s), within three (3) business days of receiving the investigation report. The Title IX Coordinator will share the Respondent's statement with the Complainant, who will have three (3) business days to respond in writing to any such statement. The Title IX Coordinator will provide the final investigation report, together with any statements by the parties, to the Adjudicating Panel for further proceedings as outlined below.

3. The investigation report and any contesting statements and responses thereto made by the parties will be assigned to an Adjudicating Panel that will determine (1) whether the concerns of a contesting party raise substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation; and, if not, (2) whether there is sufficient evidence to support the investigator's recommended finding(s) by a preponderance of the evidence.
4. Adjudicating Panel members will be designated as follows:
 - In the case of a faculty Employee Respondent, the Adjudicating Panel will include the Vice President for Academic Affairs and Dean of Faculty and one or more School Deans, who will jointly determine appropriate sanctions in consultation with Human Resources. In making the determination, they may meet with the investigator, Complainant, Respondent, and other individuals who may have relevant information as appropriate.
 - In the case of a non-faculty Employee or Third Party Respondent, the Adjudicating Panel will include the Vice President for Finance and Administration and a designated department head, who will jointly determine appropriate sanctions in consultation with Human Resources. In making the determination, they may meet with the investigator, Complainant, Respondent, and other individuals who may have relevant information as appropriate.
5. All persons serving as an Adjudicator must receive training under Title IX and VAWA and must also be impartial and free from actual bias or conflict of interest. The Complainant and Respondent will be notified of the Adjudicator assignment and must advise the College of any actual bias or conflicts of interests. Adjudicators may also recuse themselves. The College may make alternative arrangements in Adjudicator assignment as appropriate.
6. Prior to making a final decision, the sanctions may be reviewed by the Title IX Coordinator

and/or a Deputy Coordinator to provide advice with regard to consistency and proportionality in sanctions and sufficient action to eliminate the Sexual Misconduct Violation, prevent its recurrence, and remedy its effects.

7. Sanctions for Employee and Third Party Respondents include, but are not limited to, verbal or written Warning, Censure, Education, Training, Removal of Privileges, No Contact Directive, Suspension, and/or Termination from Hampshire College employment. This list is not progressive and any sanction or combination of sanctions may be imposed. Any Employee or Third Party found responsible for Sexual Assault involving Sexual Intercourse will face a minimum sanction of suspension or termination from employment at Hampshire College. Sanctions are effective immediately, unless otherwise specified.
8. In determining the appropriate sanction(s), the College will consider a number of factors, including:
 - The nature of the conduct at issue, including whether it involved violence;
 - The impact of the conduct on the Complainant;
 - The impact or implications of the conduct on the Hampshire College community;
 - Any previous misconduct by the Respondent, at Hampshire College or elsewhere;
 - Whether the Respondent has accepted responsibility for the conduct;
 - Maintenance of a safe and respectful environment conducive to learning; and
 - Any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.

C. Notice of Outcome

The Complainant and Respondent will be notified simultaneously in writing with an Outcome Letter (which may include email) from either the VPAA/DOF (for faculty Employees) or the VPFA (for non-faculty Employees) within five (5) business days following the decision. The Outcome Letter will set forth the violation(s) of the Policy for which the Respondent was found responsible or not responsible; the rationale for the finding; any sanction(s) imposed against the Respondent; and the rationale for any sanction(s) imposed. The Outcome Letter will not disclose any remedial measures provided to the Complainant. In order to protect the privacy of the parties, the College will make reasonable efforts to maintain confidentiality of the Outcome Letter and materials related to the investigation, subject to release by court order, search warrant or subpoena.

D. Appeal

The Complainant or Respondent may appeal the determination by submitting a written appeal within seven (7) calendar days of the date of the Outcome Letter to a senior administrator

designated in the Outcome Letter. The designated senior administrator will have appropriate training and experience and will serve as an impartial decision-maker. The written appeal must include the specific grounds for the appeal and any information or argument in support of the appeal. Grounds for an appeal are limited to (1) a material procedural error that substantially impacted the outcome, (2) previously unavailable relevant evidence that could affect the outcome, and/or (3) the sanction being substantially disproportionate to the violation.

The senior administrator will make a determination based on the written record. Appeals are not intended to be a *de novo* review, i.e., they are not intended to be a review from the beginning. The senior administrator can: 1) affirm the findings, or 2) alter the findings only where there is clear error based on the stated appeal grounds. The senior administrator will make a final decision within ten (10) business days of receiving the appeal. This timeframe may be extended for good cause as necessary to ensure the integrity and completeness of the review. Any extension of the timeframe, and the reason for the extension, will be shared with the parties in writing.

E. Effect of a Pending Complaint on an Employee or Third Party Respondent

If the Respondent separates employment from the College for any reason while Formal Resolution procedures are underway, the Formal Resolution procedures will continue through to conclusion, regardless of whether the Respondent participates.

VI. ALTERNATIVE RESOLUTION

A Complainant may seek Alternative Resolution instead of an investigation and Formal Resolution. The Title IX Coordinator, however, has the discretion to determine whether the nature of the reported conduct is appropriate for Alternative Resolution, to determine the type of Alternative Resolution that may be appropriate in a specific case, and, pursuant to Section V of these Procedures, to refer a report for Formal Resolution at any time. **Forms of Alternative Resolution that involve face-to-face meetings between the Complainant and the Respondent, such as mediation (even if voluntary), are not available (a) in cases involving Sexual Assault, and/or (b) where the Complainant is a Student and the Respondent is an Employee in a position of authority over the Complainant.**

Participation in Alternative Resolution (including any specific form of Alternative Resolution) is voluntary. The College will not compel a Complainant or Respondent to engage in Alternative Resolution, will not compel a Complainant to directly confront the Respondent, and will allow a Complainant or Respondent to withdraw from Alternative Resolution at any time. The College may decline the request for Alternative Resolution in any particular case and may stop an ongoing Alternative Resolution process at any time. Pursuing Alternative Resolution does not preclude later

use of Formal Resolution if the Alternative Resolution fails to achieve a resolution acceptable to the parties and the College. Where the Complainant or the Respondent withdraws from Alternative Resolution or Alternative Resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the Alternative Resolution may be considered in a subsequent investigation and Formal Resolution.

With any form of Alternative Resolution, each party has the right to choose and consult with a supporter. The supporter may be any person, including an attorney, who is not otherwise a party or witness to the reported incident(s). The parties may be accompanied by their respective supporters at any meeting or proceeding held as part of Alternative Resolution. While the supporters may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties, or in any manner disrupt, such meetings and/or proceedings.

Alternative Resolution may include:

Resolution with the Assistance of a Third Party: A Complainant may seek assistance in informally resolving a reported Sexual Misconduct Violation from the Title IX Coordinator, who can arrange to have a trained representative facilitate a meeting or meetings between the parties. The availability of this form of Alternative Resolution, and any resolution reached through such form of Alternative Resolution, is subject to the agreement of the Title IX Coordinator, the Complainant and the Respondent. This form of Alternative Resolution may not be used where the allegation involves Sexual Assault.

Interventions and Remedies: Alternative Resolution agreements may involve a host of interventions, remedial measures and remedies, such as actions designed to maximize the Complainant's access to educational, extracurricular, and/or College employment activities; increased monitoring, supervision, and/or security at locations or activities where the Sexual Misconduct Violation occurred or is likely to reoccur; targeted or broad-based educational programming or training for relevant individuals or groups; academic and/or College housing modifications for Student Complainants; workplace modifications for Employee Complainants; one or more of the restorative remedies or other sanctions described in these Procedures; and/or any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the Policy.

Any form of Alternative Resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the College, the Complainant, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. If an agreement is not reached, and the Title IX Coordinator determines that further action is necessary, or if a Respondent fails to comply with the terms of the Alternative Resolution, the matter may be referred for an investigation and Formal Resolution under these

Procedures.

The Title IX Coordinator will maintain records of all reports and conduct referred for Alternative Resolution, which typically will be completed within forty-five (45) calendar days.

VII. RECORDS

The College shall retain all records relating to reported Sexual Misconduct Violations for a period of ten years after the date the report was received, or for at least three years after termination of employment, whichever is later.