

# SAINT ANSELM COLLEGE POLICIES ON HARASSMENT AND SEXUAL MISCONDUCT

## *Introduction*

As a Benedictine Catholic institution of higher education, Saint Anselm College strives to create an environment in which the dignity and worth of all individuals are respected. It is the policy and commitment of the College not to discriminate or harass on the basis of race, religion, color, age, sexual orientation, sex, gender identity, disability, veteran or military status, marital status or national origin, or any other legally protected category in its education programs, activities, admissions or employment policies and to comply with the requirements of Federal Executive Orders 11246 and 11375 as amended; Title VII of the Civil Rights Act of 1964 as amended; Title IX of the Educational Amendments of 1972; the Violence Against Women Act of 1994; Section 503 and 504 of the Rehabilitation Act of 1973; Section 402, Vietnam Era Veterans Readjustment Assistance Act of 1974; the Age Discrimination in Employment Act of 1967 (as amended); the Americans with Disabilities Act of 1990 (as amended by the ADA Amendments Act of 2008); and pertinent law and regulations of the State of New Hampshire, and other applicable state and federal statutes. The provisions in Part One below address harassment and other offensive conduct prohibited by the majority of the above laws and regulations.

Specifically in accordance with Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 *et. seq.* and its implementing regulations, 34 C.F.R. Part 106, as well as the Violence Against Women Act of 1994, Saint Anselm College prohibits discrimination on the basis of sex in any of the College's educational programming and activities, including Sexual Harassment and Sexual Violence, as defined below. This extends to students and employees of and applicants for admission to Saint Anselm College. The College is committed to preserving an educational and employment environment that is free from gender-based discrimination, gender-based harassment, sexual harassment, sexual violence, including domestic violence and dating violence, and stalking. Accordingly, the College maintains comprehensive policies and procedures to ensure that all students, faculty and staff are afforded all of the rights available under Title IX. **Inquiries concerning the application of Title IX may be referred to the College's Title IX Coordinator at (603) 641-7600 or [titleIXcoor@anselm.edu](mailto:titleIXcoor@anselm.edu)**, or to the Office of Civil Rights of the United States Department of Education at <http://www2.ed.gov/about/offices/list/ocr/index.html>. Further discussion of the requirements and procedures under Title IX is found in Part Two below.

Saint Anselm's Policies on Harassment and Sexual Misconduct apply to all members of the College community – students, faculty and staff – whenever they are involved in College-related or College-sponsored activities or on College business, on - or off - campus. Harassment of College guests, including opposing sports teams, speakers, visiting students or others, is also prohibited. Visitors to the College and vendors who do business with the College are expected to comply with these policies. All members of the College community should immediately report concerns about - or incidents of – any form of discrimination or harassment or Sexual Violence. Any student or employee who believes that he or she has been the subject of discrimination or harassment or Sexual Violence should report the incident or incidents to one of the following College representatives who are authorized to impose corrective measures on behalf of the College: Dean of Students, Dean of the College, the Director of Human Resources or the Title IX Coordinator.

The College encourages the timely reporting of any incident(s) of discrimination, or Sexual Harassment and other Sexual Misconduct, as defined below. The Title IX Coordinator, or his or her designee, will investigate all complaints that arise under Title IX, as set forth in Part Two below. All reports of harassment and/or discrimination that do not fall within the scope of Title IX will be addressed by the Dean of Students, Dean of the College or the Director of Human Resources, as set forth in Part One below. The College hereby provides notice that it reserves the right to use third parties to investigate claims of harassment, Sexual Harassment or Sexual Misconduct. Persons found to be in violation of the College's policies may be subject to disciplinary action up to and including dismissal from the College or its employment.

Harassment is a violation of trust and a form of intimidation or exploitation, which undermines the atmosphere of respect that is essential to a healthy work and academic environment. Therefore, harassment of or by students, staff or faculty violates the mission of the College and is prohibited.

The College recognizes the need for freedom of inquiry and openness of discussion in its education and research programs, and seeks to maintain an atmosphere of intellectual seriousness and mutual tolerance in which these essential features of academic life can thrive. This harassment policy is not meant to proscribe or inhibit discussions, in or out of the classroom, of complex,

controversial or sensitive matters when, in the judgment of a reasonable person, they arise appropriately and with respect for the dignity of others and they must never interfere with equal access to the College's education programs or activities.

Retaliation against a person who reports discrimination or harassment, assists someone with a report of discrimination or harassment, or participates in any manner in an investigation or resolution of a discrimination or harassment report is prohibited. Retaliation includes but is not limited to threats, intimidation, reprisals, and/or adverse actions related to education or employment.

Individuals who make reports of discrimination or harassment that are later found out to have been intentionally false or made maliciously without regard for truth will be subject to disciplinary action in accordance with the applicable disciplinary procedure. Reports are expected to be made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

Subject to applicable law, the College will determine the scope, nature, extent, and timing of an investigation, and reserves the right to terminate an investigation, or to undertake a further proceeding, when in its judgment it is necessary or appropriate to do so.

## PART ONE: HARASSMENT POLICY

**Definitions:** Harassment is unwelcome conduct or behavior, based on or connected to an individual's characteristics or status that denies or limits a student's ability to participate in or benefit from educational opportunities at the College or unreasonably interferes with an employee's employment. If harassment is unwelcome and is severe and/or pervasive, it may be unlawful and may subject the College and the individuals who engage in the harassment to significant liability. Thus, the College specifically prohibits harassment on any of the following bases: (1) age, (2) race, (3) color, (4) national origin, (5) religion, (6) sex, (7) sexual orientation, (8) marital status, (9) pregnancy, (10) physical or mental disability, (11) gender identity, and (12) military or veteran status.

Regarding sexual harassment, the College will not tolerate the harassment of any employee, student, or other individual on its campus or participating in College-related or College-sponsored activities on the basis of sex. In all appropriate cases, instances of or allegations of Sexual Harassment will be addressed under the College's Title IX policy. Sexual Harassment as defined under the Title IX regulations, as well as protocols to address its occurrence, are discussed in detail in Part Two of this document. However, if a complaint of harassment on the basis of sex does not appear to fall within the scope of the College's Title IX policy, the College reserves the right to address the conduct under the procedures in this Part One. For example, if an incident based on sex occurs but is not so severe, pervasive and objectively offensive to effectively deny a person equal access to the College's education programs or activities, it is more likely that the complaint would be handled under the procedures described in this Part One.

In situations where Title IX does not apply, the College will follow the traditional definition of sexual harassment, which includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or academic advancement;
- 2) submission to or rejection of such conduct by an individual is used as the basis for decisions affecting an individual's employment or academic standing; or
- 3) such conduct has the purpose or effect of unreasonably interfering with a person's work or academic performance or creating an intimidating, hostile or offensive work, learning or social environment.

Prohibited sexual harassment includes a wide range of behaviors from the actual coercion of sexual relations to unwelcome offensive comments, jokes, innuendoes and other sexually oriented statements and unwelcome behavior emphasizing sexual identity. Indirect and unintentional conduct may violate this policy as well. Employees and students are prohibited from bringing into the workplace or classroom or otherwise displaying any written materials or pictures that are sexually suggestive or offensive in nature.

Examples of other forms of prohibited harassment include but are not limited to conduct or comments that threaten physical violence; offensive, unsolicited remarks, unwelcome gestures or physical contact that relate to any of the bases listed above;

display or circulation of written materials or pictures or electronic information (for example, on social media) which is degrading to any gender, racial, ethnic, religious or other group listed above; and verbal abuse or insults about, or directed at, any person or group of persons because of their membership in any of the groups listed above.

This policy prohibits all of the activities discussed above, whether engaged in by a faculty member, agent of the College, coworker, or non-employee who is on our premises or who comes in contact with the Company's employees or students as a result of College-sponsored or College-related activities.

The purpose of this policy is not to regulate the personal morality of employees, students or applicants. It is to ensure that in the workplace and in our College setting, no person harasses or discriminates against another for any reason or in any manner. The conduct prohibited by this policy includes conduct or contact in any form including but not limited to e-mail, voicemail, chat rooms, Internet use or history, text messages, pictures, images, writings, words or gestures.

#### **Reporting Procedure for Harassment Covered by this Part One**

Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating the problem. No person of this College community is exempt from our policies prohibiting harassment and discrimination.

- Any person who believes that he/she has been discriminated against or harassed should immediately notify the Dean of Students, Dean of the College, or the Director of Human Resources. If any of these individuals determine that a reported incident might be covered by Title IX, they will share the information with the Title IX Coordinator. Any person who believes that he/she has been the victim of Sexual Harassment should refer to Part Two below and contact the Title IX Coordinator.
- Department chairs, directors, managers and supervisors who become aware of discriminatory or harassing conduct and/or a complaint of discrimination or harassment must report the conduct and/or complaint immediately to the Dean of Students, Dean of the College, or the Director of Human Resources. If there is a component of harassment on the basis of sex, the Title IX Coordinator must be notified. Failure to carry out this responsibility may be grounds for disciplinary action.
- The College will investigate every reported incident promptly and in as discreet a manner as possible, consistent with its legal obligations. All complaints will be considered confidential to the extent practicable, meaning that disclosure will be limited to those with a need to know in order to participate in the investigation, to conduct the investigation, and/or take corrective action.

Any person who has been found to have violated our policies or otherwise acted inappropriately will be subject to disciplinary action, up to and including immediate termination of employment for employees, and separation for students. The College will also take other corrective or remedial actions, when appropriate, including involvement of law enforcement.

We encourage reporting of complaints so that we may appropriately address and correct any problems. Any person who participates in good faith in any investigation under this policy has the College's assurance that it will not tolerate any retaliation against him/her as a result of bringing the complaint or otherwise participating in the process. All individuals are expected to be truthful, forthcoming, and cooperative in connection with a complaint investigation.

#### **Complaint Resolution Procedures for Harassment under this Part One**

The procedures outlined in this policy are designed to resolve a situation fairly, prevent further harassment, and mitigate harm to, first and foremost, the complaining party, and also to the spirit of the College community.

Support services are available on and off campus for any individual who wishes assistance in dealing with harassment experiences. Please see the "Campus and Community Resources" section for further information.

There are three potential avenues to resolve a complaint of harassment or discrimination that does not arise under Title IX:

##### **A. Independent Course of Action**

Sometimes the type and nature of the harassing behavior can be effectively stopped and dealt with by directly informing the harasser that the behavior in question is unwelcome and must cease. The complaining party may take independent actions, orally or in writing, addressing the harassing behavior with clear and precise communication, indicating the specific nature of the objectionable behavior and the desire/need for it to cease.

If an individual takes this course of action, the circumstances should be documented and the documentation kept (for example, notes recording the relevant incidents and conversations, including date, time, place, witnesses or individual (s) to whom one told immediately of the incident, what was said and done). If the complaining party takes action by letter, the writer should keep a dated copy of the sent letter as well as advise a trusted second party that such an action was chosen and taken.

In some circumstances the independent course of action may not be feasible, may be uncomfortable to initiate, or may have proven unsuccessful. In this case, the individual should report the offending behavior to the Prevention Specialist at The Harbor or the Associate Dean of Students for Student Success and Engagement in the Dean of Students Office as soon as possible or within a time period that is reasonable so that the College can take the necessary steps to resolve the situation.

An individual is not obliged to undertake this independent course of action before reporting the unwelcome behavior(s) to the Prevention Specialist or the Associate Dean of Students for Student Success and Engagement to begin an informal or formal complaint process.

#### **B. Informal Intervention for Resolution**

If the complaining party chooses to follow an informal resolution process, and if the matter does not fall within the scope of Title IX (see below), then the College will take reasonable steps to ensure that the alleged offending behavior ends and that the matter is resolved promptly. When this purpose is achieved, the complaint is considered resolved.

The informal intervention process can take several forms. All complaints, even those communicated through an informal process, will be taken seriously and addressed expeditiously.

If a matter is such that an investigation is advisable, the process of investigation may include interviews with the complaining party and alleged harasser to determine the facts and nature of the behavior. If the complaint is determined to be valid, the College will take a) remedial actions, including but not limited to changes to academic, living, transportation and working conditions, reasonably calculated to be effective and appropriate in ending the inappropriate activity, and b) measures to prevent recurrence. The College may also, under appropriate circumstances, offer to host a facilitated conversation or mediate a resolution that is satisfactory to the parties involved without reaching a conclusion as to the validity of each allegation underlying the complaint.

Every reasonable effort will be made to preserve the confidentiality of all parties to the extent that the investigative process allows. Only relevant information will be disclosed to those people with a need for information regarding the investigation.

Should the complaining party elect to proceed formally, s/he may elect to stop the informal process at any time and proceed through the formal resolution process.

#### **C. Formal Resolution**

A complaining party may file a formal complaint with either the Director of Human Resources, Dean of the College, or Dean of Students without first using the independent course of action or the intervention for resolution procedure. A formal complaint should include the following: the respondent's name and position; the times, dates, places, and circumstances surrounding the allegation of harassment; the names of any witnesses to the incident(s), and any other information believed to be relevant. All complaints will be taken seriously and will be investigated and addressed expeditiously by the Dean of Students, the Dean of the College, or the Director of Human Resources as appropriate and through the grievance process defined in respective handbooks (Faculty, Staff, or Student).

Investigations of reports of harassment or discrimination shall incorporate the following standards:

1. The Director of Human Resources, Dean of the College or Dean of Students, and/or their designee, shall conduct formal investigations of allegations of harassment or discrimination and coordinate College response(s) to complaints of the same. The College reserves the right to use an independent third party investigator.
2. The individual(s) accused of conduct violating the College policy prohibiting harassment or discrimination shall be informed of the substance of the allegations. If the individual(s) accused cannot be located, attempts at notification shall be documented,
3. The investigation generally shall include interviews with the parties if available, interviews with other witnesses as needed and a review of relevant documents as appropriate.
4. Disclosure of facts to witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Those conducting an investigation should remain cognizant of the confidentiality of the investigation. Those conducting investigations should remind witnesses that it is best to refrain from sharing information about an investigation in order to ensure that witnesses speak only about what they observed or heard, rather than what they were told. This will promote the integrity of the investigation and minimize unfair gossip.
5. At any time during the investigation, the investigator(s) may recommend that supportive protections or remedies for the complaining party or witnesses be provided by appropriate College officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative workplace or student housing or classroom arrangements. Failure to comply with the terms of supportive protections may be considered a separate violation of the policy prohibiting such conduct.
6. The investigation shall be completed as promptly as possible from the date the written complaint was received. The parties shall be updated periodically.
7. Any individual who has engaged in harassment or discrimination or otherwise violated the College's policies will be subject to appropriate disciplinary action, up to and including immediate discharge or separation. The complaining party will be informed when the investigation is concluded and may be informed, as appropriate, of the outcome of the investigation.

**Appeal:** Rights of appeal under this process are found in the appropriate Student, Staff and Faculty Handbooks.

**No Retaliation:** Retaliation against an individual who in good faith complains or participates in an investigation about sexual and other unlawful harassment is a violation of the College's policy and is prohibited by state and federal law. Retaliation is a form of harassment and will be handled in the same manner as other forms of harassment. Any participant who believes s/he has been subjected to retaliation s/he should contact the Vice President for Human Resources & Administration; the Dean of Students; the Dean of the College; or the Director of Human Resources. Anyone found to be in violation of this retaliation provision may be subject to disciplinary action.

**False Allegations/Information:** No person shall make an allegation that he or she knows to be untrue or knowingly provide false information during the course of an investigation. Making a false complaint or knowingly giving false information is a violation of this Policy and will be a basis for disciplinary action, including expulsion or termination. Evidence of false complaints or information should be referred to the Dean of Students if a student is involved, the Dean of the College if a faculty member is involved, or to the Director of Human Resources if a staff member is involved.

## **PART TWO: SEXUAL MISCONDUCT POLICY (Title IX)**

**A. Policy against Sexual Misconduct, including Sexual Harassment, Sexual Assault, Dating or Domestic Violence and Stalking (Title IX Violations)**

The College declares and affirms its commitment to maintaining a healthy and safe learning, living and working environment for all members of the Saint Anselm community. In support of the federally mandated Title IX requirements, the College does not condone and will not tolerate any and all forms of Sexual Misconduct. The College prohibits Sexual Assault (including but not limited to rape), Domestic Violence, Dating Violence and Stalking as well as other forms of discrimination or harassment based on sex. Incidents or allegations of Sexual Harassment and Sexual Misconduct, as defined below, will fall under Title IX and will be addressed under this Part Two.

The College recognizes the need for freedom of inquiry and openness of discussion in its educational and research programs, and seeks to maintain an atmosphere of intellectual seriousness and mutual tolerance in which these essential features of academic life can thrive. This policy is not meant to proscribe or inhibit discussions, in or out of the classroom, of complex, controversial or sensitive matters but at all times, such discussions must, in the judgment of a reasonable person, arise appropriately and with respect for the dignity of others and must not interfere with a person's equal access to education programs and activities.

As noted in more detail in the Definition section below, Sexual Harassment is defined broadly to include any of the three types of misconduct on the basis of sex, all of which jeopardize the equal access to education programs and activities that Title IX is designed to protect:

- a) Any instance of quid pro quo harassment by a College employee;
- b) any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal educational access; and
- c) any instance of sexual assault (as defined in the Clery Act<sup>1</sup>), as well as dating violence, domestic violence or stalking as defined in the Violence Against Women Act (VAWA).

Under Title IX and its regulations, all institutions must respond when Sexual Harassment occurs in the school's education program or activity, against a person in the United States. Title IX applies to all of a school's education programs or activities within the United States, whether such programs or activities occur on-campus or off-campus on premises owned by the College or owned or controlled by an officially-recognized student organization. If the allegations in a Formal Complaint do not meet the definition of Sexual Harassment or did not occur in the College's education program or activity against a person in the United States (for example if the College did not exercise substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred), the Title IX regulations direct that the College must dismiss such allegations for purposes of Title IX. Importantly, however, Saint Anselm College reserves the right to address Sexual Harassment affecting its students or employees that falls outside Title IX's jurisdiction in any manner the College chooses, including providing supportive measures and investigating and determining corrective action under Part One above, or proceeding under this Part Two, as well as the Community Guidelines contained in the Student Handbook.

All members of the College community should immediately report concerns about - or incidents of - Gender-Based Discrimination, Gender-Based Harassment, Sexual Exploitation, Sexual Harassment, Sexual Violence, Dating Or Domestic Violence and/or Stalking. Any student or employee who believes that he or she has been the subject of any such conduct should report the incident or incidents to one of the following College representatives who are authorized to impose corrective measures on behalf of the College: Title IX Coordinator, Dean of Students, Dean of the College or the Director of Human Resources. The College encourages the timely reporting of all such incident(s).

The Title IX Coordinator, or his/her designee, will investigate all complaints that arise under Title IX, as set forth in the Complaint Procedures/Grievance Process described in Section E below. The College hereby provides notice that it reserves the right to use third parties to investigate, hear, and decide claims of Title IX violations. Persons found to be in violation of this policy may be subject to disciplinary action up to and including dismissal from the College or its employment.

<sup>1</sup> The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("the Clery Act") was signed in 1990 and requires colleges and universities to keep and disclose information about crime on or near their campuses. 20 USC section 1092 and 34 CFR 668.46.

In summary, the College is committed to 1) responding promptly to individuals who are alleged to be victims of Sexual Harassment by offering Supportive Measures, 2) following a grievance process that is fair to both Complainants and Respondents to resolve allegations when a Complainant requests an investigation or a Title IX Coordinator decides that an investigation is necessary, and 3) providing remedies to victims of Sexual Harassment.

## **B. Definitions relating to the College's Title IX Process**

### *Definitions relating to parties who may be involved:*

**Bystanders/ bystander intervention** refers to safe and positive options that may be carried out by an individual or individuals who observe or are in the vicinity of an incident to prevent harm or intervene in situations of potential harm when there is a risk of gender-based harassment, gender-based discrimination, sexual harassment, sexual violence, dating or domestic violence or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute Title IX sexual harassment. A person may be a Complainant even where no Formal Complaint has been filed.

**Respondent** is an individual who has been reported to be the perpetrator of conduct that could constitute Title IX sexual harassment. A Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. A person may be a Respondent even where no Formal Complaint has been filed.

### *Definitions relating to types of conduct that may be covered by the College's Title IX Policy:*

**Actual Knowledge** means notice of Sexual Harassment or allegation of Sexual Harassment to the College's Title IX Coordinator or any other official of the College who has authority to institute corrective measures on behalf of the College. Note that not all persons at the College who have the obligation to report Sexual Harassment are authorized to institute "corrective measures" on behalf of the College. This means that telling someone other than an authorized official might not give rise to Actual Knowledge or an obligation to act.

**Consent** means an informed, freely given agreement, communicated by clearly understandable words or actions, to participate in each form of sexual activity. Consent cannot be inferred from silence, passivity, or lack of active resistance. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. By definition, there is no consent when there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological or any altered state (i.e. inebriation). A person who is the object of sexual violence or aggression is not required to physically or otherwise resist the aggressor; the lack of informed, freely given consent to sexual contact constitutes sexual misconduct. Impairment due to drugs or alcohol does not diminish each party's responsibility to obtain consent.

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

**Domestic Violence** means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the family or domestic violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Gender-Based Discrimination** refers to the unfair treatment of one person with respect to others in the same work or academic role, in terms of, including but not limited to, hiring, promotion, retention, grading, etc., because of that person's gender, including, but not limited to, pregnancy, gender identity, or failure to conform to stereotypical notions of masculinity or femininity.

**Gender-based harassment** includes, but is not limited to, acts of verbal, non-verbal, or physical aggression, intimidation or hostility based on sex or sex-stereotyping, even if these acts do not involve conduct of a sexual nature.

**Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or
- (3) A single instance of Sexual Assault, Dating Violence, Domestic Violence or Stalking as defined under the Clery Act or VAWA.

**Sexual Misconduct** is defined as any activity of a sexual nature that violates another individual's physical and/or emotional well-being or personal space without that person's explicit consent. Sexual Misconduct incorporates a range of behaviors including Sexual Harassment, Sexual Assault (which includes any kind of nonconsensual sexual contact, including rape), Dating Violence, Domestic Violence, Stalking, and any other conduct of a sexual nature that is nonconsensual, or has the effect of threatening, intimidating, or coercing a person(s). Sexual misconduct occurs when there is a lack of mutual consent about sexual activity. Behaviors that violate the Sexual Misconduct Policy include, but are not limited to the following:

**Sexual Violence** refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (see definition of "consent" below), for example due to the Complainant's use of drugs or alcohol. An individual may also be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of Sexual Violence, including, but not limited to, rape, sexual assault, sexual contact, sexual abuse and sexual coercion.

**Sexual Assault:** Any type of sexual contact or behavior that occurs without the explicit consent of the other person or is obtained through the use of force, threat of force, intimidation or coercion. This includes but is not limited to the following:

- Sexual intercourse (anal, oral or vaginal) with some penetration, however slight by another person or with any object by another person, and any sexual contact, however slight, by another person or with any object, by another person.

Rape: Sexual intercourse by forcible compulsion or threat of forcible compulsion or where one of the participants lacks the capacity to consent.

- Compulsion can be use of physical, intellectual, moral, emotional or psychological force, either expressed or implied.
- It also includes sexual intercourse with a person who is unconscious, incapacitated by alcohol or drugs, underage, mentally challenged, unconscious or asleep.

**Sexual Contact** Includes intentional contact with breasts, buttocks, groin, genitals, mouth or other bodily orifices of another person or touching another person with any of these body parts or making another person touch you or themselves with any of these body parts. It also includes intentional contact with any bodily part in a sexual manner.

**Sexual Coercion** refers to forcing an unwilling person to touch another's intimate parts.

**Sexual Exploitation** occurs when an individual takes non-consensual or abusive sexual advantage of another, for any purpose, and that behavior does not constitute one of the other sexual misconduct offenses. Sexual exploitation can take many forms including, but not limited, to the following:



- **Inducing intoxication or incapacitation for the purpose of sexual activity:** providing drugs, alcohol, or other substances with the intent to impair their ability to withhold consent or their ability to knowingly consent to sexual activity
- **Invasion of privacy:** surreptitiously recording, preserving, or storing another individual's nudity or sexual activity without the knowledge and consent of all parties involved, or in which the person observed has not attained 18 years of age. Sharing, transmitting, distributing, or streaming of images, video, or audio recordings of sexual activity or nudity, without the knowledge and consent of all parties involved shall constitute a separate act of sexual exploitation. The act of sexual exploitation can be committed by anyone knowingly possessing an image that was sent without the individual's consent.
- **Voyeurism:** the act of intentionally observing or, spying on, or listening to a person(s) involved in sexual contact or in any state of undress, without their consent. Voyeurism also occurs when an individual allows others to observe this behavior without the consent of all the person(s) involved.
- **STIs:** knowingly exposing another individual to a sexually transmitted infection or virus without their knowledge.

**Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional distress. Examples of stalking behaviors or activities include, but are not limited to: (1) non-consensual communication, including face-to-face communication, telephone calls, voice messages, emails, text messages, social media postings, written letters, gifts, or any other communications that are unwelcome; (2) inappropriate use of online, electronic or digital technologies, including, but not limited to, posting of pictures, or text in chat rooms or on websites, sending unwanted/unsolicited email or talk requests, and posting private or public messages on Internet sites, social networks, and/or school bulletin boards; (3) pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person; (4) surveillance or other types of observation including staring or "peeping;" (5) gathering information about an individual friends, family or co-workers; and (6) accessing private information through unauthorized means.

**Cyber-stalking:** A particular form of stalking in which threatening behavior or unwanted sexual advances directed at another person using electronic media such as: web pages, social networks, blogs, cell phones, texts, or other online and computer contact. Some examples of cyber-stalking may include, but are not limited to:

- Repetitive nonconsensual or unsolicited emails.
- Instant messages and messages posted in on-line bulletin boards.
- Unsolicited communications about a person, their family, friends, or co-workers that may be deemed threatening.
- Sending/posting unwelcomed and unsolicited messages with another username.
- Using electronic devices or software to track and/or obtain private information and to contact and/or post threatening or personal information.

#### Definitions relating to the College's Title IX process:

**Formal Complaint** is a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment, which may include Sexual Violence, against a Respondent or Respondents and requesting that the College investigate the allegation of Sexual Harassment. Additionally:

- At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the College.
- A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information contained in this Policy, and by any additional method designated by the College.
- The College may have Actual Knowledge of allegations of Sexual Harassment even before the filing of a Formal Complaint, and such knowledge will activate the College's obligation to respond promptly by offering Supportive Measures.

A "document filed by a Complainant" means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the College) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

Note that if the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator does not thereby become a Complainant or a party.

**Preponderance of Evidence** - The standard of proof in which one party presents evidence which is considered by the hearing body to be more credible and convincing than that which is presented by the opposing party; or which shows that a fact to be proven is more probable than not. This standard will be applied for Formal Complaints against students and non-students.

**A reasonable person's test** is the standard by which an objective, reasonable person would find conduct to be abusive or hostile *and* the Complainant also finds it to be abusive or hostile.

**Supportive Measures** are individualized, reasonably available services that are non-punitive, non-disciplinary, and are offered without fee or charge to the Complainant and/or the Respondent in response to a report or Formal Complaint of Sexual Harassment. The Supportive Measures will not be unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, and deter sexual harassment. (See Section D) Under Title IX, the College must offer Supportive Measures irrespective of whether the Complainant files a Formal Complaint.

## **C. REPORTING SEXUAL MISCONDUCT**

### **Who Should Report?**

Anyone who believes that s/he has experienced or becomes aware of conduct that may be a Title IX violation, including Sexual Harassment, Sexual Violence or other Sexual Misconduct may:

- Choose to report the incident and press charges through the local law enforcement agency and/or
- File a report with the College's **Title IX Coordinator (Andrew Litz)** at [titleIXcoor@anselm.edu](mailto:titleIXcoor@anselm.edu) or (603) 641-7600. Reports may also be made to the Dean of Students, Dean of the College or the Director of Human Resources (See Section H). Each of these individuals will listen to the facts and review, with the reporter, the options for further appropriate action under the circumstances. For emergencies outside of business hours, report any incident to Campus Safety.

Any individual who receives a report of misconduct or a violation of this policy should immediately report the misconduct and/or violation to the Title IX Coordinator, Dean of Students, the Dean of the College or the Director of Human Resources. *The College requires the following individuals to report any instances or allegations of potential violations of this policy: department chairs, directors, faculty, supervisors and administrators at all levels. Failure to carry out this responsibility may be grounds for disciplinary action.*

### **How to Report Incidents of Sexual Misconduct to the Local Authorities**

The College encourages full reporting of Sexual Misconduct as well as the full use of all available campus and off-campus resources. The College also recognizes that someone who believes that s/he has been sexually assaulted and/or experienced Sexual Violence has the right in most circumstances to decide whether to report the incident to College authorities and/or law enforcement and to decide what campus or community resources to use. The College cooperates with all investigative agencies. The College will do its best to comply with the wishes of someone who believes that s/he has been sexually assaulted and/or experienced Sexual Violence.

To report an incident of Sexual Misconduct to law enforcement, call the **Goffstown Police Department**: "911" from a campus landline for an emergency; otherwise (603) 497-4858 for the office.

### **How to Report Incidents of Sexual Misconduct to the College**

Any person who believes that s/he has experienced an incident of Sexual Harassment or any form of Sexual Misconduct should contact the Title IX Coordinator, the Dean of Students, the Dean of the College or the Director of Human Resources. **Contact information for each is below in Section H.** Any third party should report conduct that is believed to be Sexual Harassment or Sexual Misconduct.

While parents and guardians do not become Complainants, Title IX expressly recognizes the legal rights of parents and guardians to act on behalf of parties (including by filing formal complaints) in Title IX matters.

If a report of Sexual Harassment or Sexual Violence is made to the Office of Campus Safety & Security, the Title IX Coordinator will be notified that a report has been made. This notification will usually include the names of the persons involved in the alleged Sexual Misconduct and the nature of the allegations.

Due to the extremely private nature of incidents that may constitute Sexual Violence, the College will not normally pursue complaints of Sexual Assault and/or Sexual Violence unless the person who believes s/he has been sexually assaulted/violated is involved in the process. However, the College reserves the right, in its sole discretion, to pursue an incident of Sexual Violence to its conclusion in cases where not pursuing the incident could constitute a danger to the College community.

Any time a member of the College Community sees another person in trouble or in harm's way, s/he should call the **Office of Campus Safety and Security at (603) 641-7000** as soon as possible.

### **Preservation of Evidence While A Report is Being Made**

The preservation of evidence in incidents of Sexual Violence is critical and particularly time-sensitive. The College administrator, faculty or staff member who first hears such an incident from a Complainant will inform the Complainant of the importance of self-care and preserving evidence, including by taking the following actions:

1. Seek medical assistance at the hospital, ideally within 72 hours of the incident;
2. Seek personal or emotional support;
3. If you are considering reporting to Police (Jane Doe or otherwise):
  - Do not shower, bathe, wash hands or face, or douche;
  - Try not to urinate;
  - If oral contact took place, refrain from smoking, eating, drinking, or brushing teeth; and
  - If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).

## **D. SUPPORTIVE MEASURES DURING AN INVESTIGATION AND RESOLUTION OF A REPORT OF A TITLE IX VIOLATION**

Upon receipt of a report, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures, regardless of whether a Formal Complaint is filed.

**For Students**, the following are examples of Supportive Measures that may be offered to both Complainant and Respondent(s) and implemented to the extent they are deemed reasonable, feasible, and necessary based on the circumstances:

- a change, when possible, to campus housing assignments
- a change, when possible, to class schedules
- restrictions on entrance into certain campus areas or buildings
- increased security and monitoring of certain areas of campus
- use of Campus Safety to be escorted while on campus
- mutual restrictions on contact between the Complainant and Respondent(s)
- Academic Support, including extensions of deadlines or other course-related adjustments
- counseling services through College Health Services (see Campus and Community Resources below)
- leave of absence
- similar measures.

To request a Supportive Measure, students may contact the Title IX Coordinator, the Dean of Students, the Associate Dean of Students for Engagement, or their designee.

**For Employees**, the following Supportive Measures may be offered to both Complainant and Respondent(s) and implemented to the extent they are deemed reasonable, feasible, and necessary based on the circumstances:

- a change, when possible, to office or work locations
- a change, when possible, to supervisor assignments
- a change, if possible, to work assignments
- increased security and monitoring of certain areas of campus
- mutual no contact orders
- escort services while on campus
- leave of absence from the College
- other similar measures.

For the Complainant or Respondent to request a supportive measure, faculty and/or staff may contact the Title IX Coordinator.

In both student and employee matters, the Title IX Coordinator is responsible for coordinating the ongoing effectiveness of Supportive Measures. The College will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining confidentiality would not impair the College's ability to provide the Supportive Measures.

**Emergency Removal.** Nothing in this policy precludes the College from removing a Respondent from the College's education program or activity on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. Likewise, nothing in this policy precludes the College from placing an employee Respondent on administrative leave during the pendency of the grievance process described below.

## E. COMPLAINT RESOLUTION PROCEDURES / TITLE IX GRIEVANCE PROCESS

Upon receipt of a report, the Title IX Coordinator will promptly contact the Complainant. In addition to discussing the availability of the above Supportive Measures, the Title IX Coordinator will also explain the process for filing a Formal Complaint.

The procedures outlined in this policy are designed to resolve a situation fairly, prevent further instances of Sexual Misconduct, and mitigate harm to, first and foremost, the Complainant, and also to the spirit of the College community.

Actions by the police or the criminal courts do not in any way prejudice the right of a person to pursue a Formal Complaint using the College's disciplinary procedures described below.

The College has created this policy, and will carry out its requirements, based on the following principles:

- Complainants and Respondents will be treated equitably consistent with Title IX regulations, without impairing Constitutional rights
- The Investigative Team and all decision-makers will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, using the Preponderance of the Evidence standard
- Title IX Coordinators, investigators, decision-makers or anyone designated to facilitate an informal resolution process will not have any conflict of interest or bias for or against complainants or respondents generally or against any individual Complainant or Respondent, and will have been trained on the requirements of Title IX regulations and the College's policies, including the importance of serving impartially, avoiding prejudgment, and avoiding reliance on sex stereotypes
- Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness
- No questions or evidence that constitute or seek disclosure of information protected by a legally recognized privilege will be allowed, unless the privilege is waived
- Investigators will receive training on issues of relevance in order to create a report that fairly summarizes relevant evidence
- Decision-makers will be trained on technology to be used at the live hearing and on questions of relevance and evidence, including about prior sexual conduct

- It is presumed that a Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process
- The grievance process will conclude in a reasonably prompt time, which may include a temporary delay of the grievance process or a limited extension of timeframes for good cause, with written explanation to all parties. Good cause may include, without limitation, the absence of a party or a party's advisor or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.
- Both Complainant and Respondent will be informed of College and community Supportive Measures and resources, even without the filing of a Formal Complaint
- Following the filing of a Formal Complaint, both the Complainant and Respondent shall be afforded the opportunity to have an advisor of their own choosing present at all subsequent meetings
- During the investigative process, both the Complainant and Respondent shall have the opportunity to recommend witnesses
- Both Complainant and Respondent shall be notified of the outcome of the proceedings in writing
- Both Complainant and Respondent shall have the opportunity to appeal the findings of a College proceeding with the College's Appeal guidelines as defined herein.

**Confidentiality** - The confidentiality of all individuals involved, including the Complainant, Respondent and any witnesses, will be protected to the extent possible, as required by law. Only relevant information will be disclosed to those people with a need for information regarding the investigation and/or resolution of the complaint. Dissemination of information relating to these cases is limited so as to insure, as fully as possible, the privacy of the individuals involved. Additionally if the Complainant wishes to remain anonymous, or not pursue a Formal Complaint, the Complainant should be advised that the College's response may be limited. However, because of the College's obligation to maintain a safe environment for all members of the College community, the College may have an obligation to pursue an investigation without the Complainant's cooperation. In such cases, the College will take preventative measures to preserve confidentiality to the extent permissible by applicable law.

There are times when the College may not be able to honor a Complainant's request for confidentiality in order to provide a safe, non-discriminatory environment for all students. When weighing a Complainant's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors in determining whether or not to honor the request. The College does reserve the right to continue to investigate all claims in order to preserve community safety.

If the Title IX Coordinator determines that it cannot maintain a Complainant's confidentiality, the Title IX Coordinator will inform the Complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response.

### **Retaliation**

The College will not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX. In particular, the College will not retaliate against an individual for his/her making a report or complaint of Sexual Harassment, for assisting, or participating in the investigation or hearing of a Sexual Harassment complaint.

To the extent permitted by law, the College does, however, reserve the right to use information obtained from any source in the course of an investigation or hearing as the basis for further investigation and, potentially, disciplinary proceedings.

Retaliation of any kind is prohibited. Anyone who reports an actual or suspected incident of harassment, discrimination or violence based on sex, or who participates in an investigation, will not be subjected to retaliation. If a Complainant or witness believes s/he has been subjected to retaliation, s/he should contact the Title IX Coordinator; the Dean of Students, the Dean of the College or the Director of Human Resources. Anyone found to be in violation of this retaliation provision will be subject to disciplinary action. It is not considered retaliation for the College to conduct an investigation and impose discipline for making a materially false statement in bad faith in the course of the grievance proceeding.

### **Amnesty**

*Related Alcohol and Drug Violations:* The health and safety of every student at the College is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence -- including but not limited to domestic violence, dating violence, stalking, or sexual assault -- occurs, may be hesitant to report such incidents due to fear of potential consequences for their own conduct.

Because the College strongly encourages students to report gender-based misconduct, it has adopted the following policy: the College will consider the entirety of circumstances and importance of encouraging reporting by a student (including a bystander), acting in good faith, who discloses any incident of Sexual Misconduct and will in most situations either impose lesser discipline, or not impose discipline, for violations of alcohol and drug policies occurring at or near the time of the Sexual Misconduct.

Support services are available on and off campus for any individual who wishes assistance in dealing with sexual harassment experiences. Please see the "Campus and Community Resources" section for further information.

### **The Complaint**

If a Formal Complaint is submitted, it should include the following: the Respondent's name and position; the times, dates, places, and circumstances surrounding the allegation of harassment; the names of any witnesses to the incident(s), and any other information believed to be relevant.

Upon receipt of a Formal Complaint, the College will provide written notice to all known parties, which will include:

- Notice of the College's grievance process, including any informal resolution process that may be offered
- Notice of the allegations that potentially constitute Sexual Harassment, including sufficient details known at the time, such as the identities of the parties involved, the conduct involved, the date and location of the conduct (such notice to be provided with sufficient time to prepare a response before any initial interview).
- A statement that the Respondent is presumed not responsible for the alleged conduct at the time of the Notice, and that a determination regarding responsibility will be made at the conclusion of the grievance process.
- Information about each parties' right to have an advisor of their choice (who may be an attorney) to inspect and review evidence
- Notice that knowingly making false statements or submitting false statements is prohibited.

If during the course of an investigation, the College decides to investigate allegations about the Complainant or Respondent that were not included in the initial notice, the College will provide notice of the additional allegations to known parties.

### **Investigation**

The College's Title IX investigative process includes the following:

1. If the Complainant chooses to file a Formal Complaint, the Title IX Coordinator will send the Notice described above and must investigate the allegations. If the Complainant does not choose to file a Formal Complaint, the Title IX Coordinator may conduct an informal inquiry to determine whether the Title IX Coordinator will file a Formal Complaint.
2. Once a Formal Complaint is filed, the Title IX Coordinator shall appoint one or more individuals as an Investigative Team to conduct formal investigations of allegations of Sexual Misconduct. The College reserves the right to use third parties to investigate claims of Title IX violations.
3. The Respondent may elect to take responsibility for a violation at the onset of the investigation. The College may still follow the investigative procedures.
4. The investigation generally shall include interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant information as deemed appropriate by the Investigative Team.
5. The Investigative Team will investigate the allegations in the Formal Complaint and compile the facts.
  - a. The Investigative Team will meet separately with the Complainant and the Respondent to gather facts regarding the incident.
  - b. The Investigative Team will ask both the Complainant and Respondent to provide a list of witnesses and other relevant information. It is at the discretion of the Investigative Team to interview witnesses.
  - c. Disclosure of facts or information to witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation.
  - d. The Investigative Team may meet with other parties who have information regarding the incident as the Investigative Team so elects.
  - e. The Investigative Team will determine what, if any, additional material to review.

6. During the investigation, the College, and not the Complainant or the Respondent, bears the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for Sexual Harassment.
7. Students and employees are obligated to cooperate in an investigation and respond to questions and requests for information fully and truthfully. All students and employees are encouraged to cooperate.
8. The College will not access, consider, disclose, or use a party's medical, psychological or similar treatment records without that party's voluntary, written consent to do so.
9. Both the Complainant and Respondent will have equal opportunity to present witnesses to the Investigative Team, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
10. Neither the Complainant nor the Respondent will be restricted from discussing the allegations under investigation or to gather and present relevant evidence. Each will be reminded that it is best to refrain from sharing information about an investigation in order to ensure that witnesses speak only about what they observed or heard, rather than what they were told. This will promote the integrity of the investigation and minimize unfair gossip.
11. The Complainant and Respondent will have the same opportunities to have others present during any grievance proceeding and any related meeting or proceeding, including an advisor of their choice, who may be, but is not required to be, an attorney. The College may establish restrictions regarding the extent to which an advisor may participate in the proceedings, as long as the restrictions apply equally to both the Complainant and Respondent, and subject to the right to cross-examination discussed below.
12. The Investigative Team will provide written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for each party to prepare to participate.
13. Upon conclusion of the investigation, the Investigative Team will:
  - Send the parties, and their advisors, evidence obtained during the investigation that is directly related to the allegations (including evidence upon which the College does not intend to rely and all inculpatory or exculpatory evidence from any source), in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and submit a written response to the evidence. All such evidence available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
  - Consider the parties' responses and re-open the investigation as appropriate or not
  - Send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to submit a written response, which may include a request that additional information be added, a request for clarification, and/or a request that additional witnesses be interviewed.
  - Consider the parties' responses and re-open the investigation as appropriate or not. Upon conclusion, the final report will be issued and sent to both parties and the Title IX Coordinator in electronic format or hardcopy.
14. At any time during the investigation, the Investigative Team may recommend that additional/different Supportive Measures be provided by appropriate College officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative workplace or student housing arrangements. Failure to comply with the terms of Supportive Measures may be considered a separate violation of the policy prohibiting Sexual Misconduct.
15. The investigation shall be completed as promptly as possible. Both the Complainant and Respondent shall be kept informed periodically of the progress of the investigation.
16. The Investigative Team Report will include:
  - a summary of the process it has followed, and documents and other information reviewed;
  - specific allegations of violations of the Policy and facts alleged in support thereof;
  - a summary of findings and conclusions with regard to the stated allegations.

### ***Dismissal of a Formal Complaint***

**Mandatory Dismissal:** If the conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined even if proved, did not occur in the College's education program or activity or did not occur against a person in the United States, then the College will dismiss the Formal Complaint with regard to that conduct for purposes of Sexual Harassment under Title IX. However, if the Formal Complaint is dismissed for failure to meet these threshold Title IX requirements, the College does reserve the right to take action under its code of conduct or harassment policy under Part One above.

**Discretionary Dismissal:** The College may also dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled or employed by the College; or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

The College will give written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal, simultaneously to the Complainant and the Respondent.

The College reserves the right to consolidate formal complaints where the allegations arise out of the same facts.

### **Hearing Process**

Upon the recommendation of the Investigative Team, as found in their Final Report, the Title IX Coordinator will convene a "live hearing" before a Conduct Review Panel.

At the live hearing, the Investigative Team will present discovered facts and materials to the Conduct Review Panel, who may question the Investigative Team, the Complainant, the Respondent and any other witnesses as it sees fit. There will also be an opportunity for cross-examination, as described below. At the conclusion of the hearing, the Conduct Review Panel will issue its decision.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. The Complainant and Respondent are both permitted to have an advisor of choice present at the hearing. These advisors will sign an agreement for their conduct and are obligated to adhere its elements. The Chair of the Conduct Review Panel has discretion to place limitations or conditions on the advisor's participation, and in extreme cases, where an advisor fails to adhere to this policy and disrupts a hearing, the advisor can be dismissed from the hearing. Complainants and Respondents are required to notify the Title IX Coordinator, who in turn will notify the Chair of the Conduct Review Panel, 10 days in advance, if the advisor will be present. A student should select an advisor whose schedule allows attendance at the scheduled date and time for any hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor. Advisors are required to preserve the confidentiality of the proceedings. *Cross-examination:*

At the live hearing, the Conduct Review Panel will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. At the request of either party, the College will provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms and with technology enabling the parties to see and hear each other. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Conduct Review Panel will first determine whether the question is relevant. If it is not, the Conduct Review Panel will explain to the party's advisor who asked the cross-examination question(s) the reason to exclude a question as not relevant.

If a party does not have an advisor present at the live hearing, the College will provide, without fee or charge to that party, an advisor of the College's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party. If a party or witness does not submit to cross-examination at the live hearing, the Conduct Review Panel will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Conduct review Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Title IX provides rape shield protections for complainants, deeming irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or offered to prove consent.



The College will create an audio or audiovisual recording, or transcript, of any live hearing.

- **Electronic Devices** - No Respondent, Complainant, advisor, and/or witness may bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room, unless authorized in advance by the Conduct Review Panel.

The Conduct Review Panel will determine, based on a Preponderance of the Evidence, whether the Respondent violated the College's Sexual Misconduct Policy and, if so, what disciplinary actions (remedies) to impose. The Conduct Review Panel will issue a written determination which:

- identifies the allegations potentially constituting Sexual Harassment
- describes in detail the procedural steps taken from the receipt of the Formal Complaint through the determination
- outlines the findings of fact supporting the determination
- provides conclusions regarding the application of the College's policy to the facts
- states the rationale for and the result as to each allegation, including a determination regarding responsibility
- states any disciplinary sanctions the College is imposing on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and
- outlines the procedures and permissible bases for the Complainant and Respondent to appeal.

The Chair of the Conduct Review Panel will then notify the Title IX Coordinator or designee as appropriate of the Conduct Review Panel's decision and any assigned disciplinary actions.

The College will provide the written determination to the Complainant and the Respondent simultaneously.

The determination of the Respondent's responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely under the College's policy.

The Title IX Coordinator is responsible for effective implementation of any remedies.

### **Sanctioning/ Remedies**

Following the grievance process, if a Respondent is found to have violated the College's policies against Sexual Misconduct, the College will impose disciplinary sanctions or remedies. The sanctions or remedies will be designed to restore or preserve equal access to the College's education program or activity, by stopping the Sexual Misconduct and preventing future Sexual Misconduct. Such remedies may include the same individualized services described above as "Supportive Measures" or can be of a disciplinary or punitive nature and may be burdening to the Respondent, **including, but not limited to any of the following: a warning, a reprimand, required attendance at an educational workshop, counseling or evaluation; no contact order; restitution, transfer, suspension, job termination, or dismissal.**

- In situations where the Respondent is found to have violated the Policy by committing stalking, the recommended sanctions include no contact order, suspension, transfer from position/department, or in some extreme situations and at the discretion of the College, discharge from position or dismissal from the College.
- In situations where the Respondent is found to have violated the Policy by committing sexual assault, rape, domestic violence, or dating violence, the recommended sanction will be suspension or dismissal from the College.
- The College reserves the right to modify sanctions depending on the facts and circumstances of each particular incident.

- Additional sanctions, up to and including termination/dismissal, may be imposed in the event that the Respondent fails to comply with the initial disciplinary sanctions imposed.

To the extent permitted by law, the outcome of a proceeding, and evidence and information gathered in the course of an investigation and hearing, may be used in, and serve as a basis for, other related proceedings, such as subsequent complaints, investigations, grievances, and/or disciplinary actions.

Copies of the outcome and sanctions will be provided to those College administrators, academic leaders, and supervisors who are directly responsible for implementing measures to correct any sexual harassment or sexual misconduct/violence. General information and aggregate data may be provided at regular intervals to enact preventions and create a campus culture aimed at preventing conditions for Sexual Harassment and Sexual Misconduct/ Sexual Violence.

### **False Claim**

No person shall make an allegation that he or she knows to be untrue or knowingly provide false information during the course of an investigation. Making a false complaint or giving false information is a violation of this Policy and may be a basis for discipline, including expulsion or termination. Evidence of false complaints or false information shall be referred to the Dean of Students if a student is involved, the Dean of the College if a faculty member is involved, or to the Director of Human Resources if a staff member is involved.

Regardless of the method of resolution or the outcome, Complainant is at all times free to pursue a complaint with the Equal Employment Opportunity Commission, the New Hampshire Commission for Human Rights, the United States Department of Education (Office for Civil Rights), the United States Department of Labor (Office of Federal Contract Compliance Programs), or by consulting an attorney at her or his own expense.

### ***Informal Resolution***

On rare occasions the College may choose to offer and facilitate an informal resolution option (mediation), so long as both parties give voluntary, informed, written consent to attempt the informal resolution. The College will not require the parties to participate in an informal resolution process or condition continued enrollment at the College on participation in the informal resolution process. The College will not offer an informal resolution process unless a Formal Complaint is filed. An informal resolution process may occur at any time prior to reaching a decision about responsibility. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal complaint. The College will not offer or facilitate an informal resolution process to resolve allegations that an employee engaged in Sexual Harassment of a student.

## **F. APPEALS**

The Complainant and the Respondent shall be informed simultaneously in writing of the completion of a disciplinary proceeding (whether before the Conduct Review Panel or otherwise).

Either party has the right to appeal a decision and/or sanction in a disciplinary case. The Complainant and the Respondent will be informed of the procedure for appeal, and notified that they will have five (5) working days after the receipt of the written determination to file an appeal. Appeals must be based on one of the following conditions:

- (1) alleged procedural errors that affected the decision;
- (2) the introduction of newly discovered evidence that was not reasonably available prior to the decision and of a nature that could affect the outcome of the matter; or
- (3) Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

The appeal must be in writing and submitted to the Title IX Coordinator, must state the specific basis for appeal and identify the supporting information for it, must be signed by Complainant or Respondent, and submitted as outlined in the handbook appropriate to the individuals (i.e., faculty, the Faculty Handbook; staff, the Staff Handbook; and students, the Student Handbook. Upon receipt of a request for appeal, the College will notify the other party in writing.

The decision-maker(s) for the appeal will not be the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, any member of the original Investigative Team, or the Title IX Coordinator. The decision-maker(s) will not have a conflict or bias for or against complainants or respondents generally or any individual Complainant or Respondent, and shall receive training required by the Title IX regulations, including on issues of relevance of questions and evidence. On appeal, both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The decision-maker shall issue a written decision describing the result of the appeal and the rationale for the result and shall provide the written decision simultaneously to both parties.

## **G. CONTACT INFORMATION**

### **TITLE IX COORDINATOR**

The Saint Anselm College Title IX Coordinator is responsible for coordinating the efforts of the College to comply with Title IX. The Title IX Coordinator for the College is:

Andrew S. Litz, Associate Dean of Students for Community Standards  
Saint Anselm College; Box 1731; 100 Saint Anselm Drive; Manchester, NH 03102 (First floor of Alumni Hall)  
Email: [titleIXcoor@anselm.edu](mailto:titleIXcoor@anselm.edu)  
Phone: (603) 641-7600  
Fax: (603) 641-7602

Students, faculty, and staff may contact the Title IX Coordinator's Office to inquire about their rights under the College's policies, request counseling, or to seek information about filing a complaint.

**Others with Authority to institute corrective action** include the Deputy Title IX Coordinators:

Alicia A. Finn, Ph.D., Vice President for Student Affairs and Dean of Students  
Saint Anselm College; Box 1731;  
100 Saint Anselm Drive; Manchester, NH 03102 (First floor of Alumni Hall)  
Email: [AFinn@anselm.edu](mailto:AFinn@anselm.edu)  
Phone: (603) 641-7600

Karlea Brunelle-Joiner, Ed.D Associate Dean of Students for Student Engagement and Success  
Saint Anselm College; Box 1731;  
100 Saint Anselm Drive; Manchester, NH 03102 (First floor of Alumni Hall)  
Email: [KJoiner@anselm.edu](mailto:KJoiner@anselm.edu)  
Phone: (603) 641-7600

Mark W. Cronin Ph.D., Dean of the College  
Saint Anselm College; Box 1730;  
100 Saint Anselm Drive; Manchester, NH 03102 (First floor of Alumni Hall)  
Email: [MWcronin@anselm.edu](mailto:MWcronin@anselm.edu)  
Phone: (603) 641-7250

Molly McKean, Executive Director for Human Resource  
Saint Anselm College; Box 1716;  
100 Saint Anselm Drive; Manchester, NH 03102 (Third floor of Alumni Hall)  
Email: [MMckean@anselm.edu](mailto:MMckean@anselm.edu)  
Phone: (603) 641-7258

Meg Pfalzgrath, Gender Equity and Compliance (Athletics)  
Saint Anselm College; Box 1727;  
100 Saint Anselm Drive; Manchester, NH 03102 (Basement of Carr Center)  
Email: [MPfalzgraf@anselm.edu](mailto:MPfalzgraf@anselm.edu)  
Phone: (603) 641-7107

### ***Campus and Community Resources***

**College Health Services (for Students) - Confidential** (603) 641-7000 after business hours  
Roger and Francine Jean Student Center  
641-7028

**The Harbor (Confidential)**  
Roger and Francine Jean Student Center  
603-641-7491

**Campus Ministry Office (Confidential)**  
Roger and Francine Jean Student Center  
603-641-7230

**Campus Safety & Security** (603) 641- 7000 after business hours  
(603) 641-7260

**Employee Assistance & Work/Life Program** 1-800-647-9151  
Anthem Employee Assistance Program

**Domestic and Sexual Violence Advocacy, Support groups and Emergency**

**YWCA**

72 Concord Street  
Manchester, NH 03101

**Hot Line: (603)668-2299**

(24 hour crisis line)  
Office: (603) 625-5787

**Bridges: Domestic & Sexual Violence Support**

**603-883-3044 (24 hour hotline)**

**Pastoral Counseling Services**

2013 Elm St., Manchester

**(603) 627-2702**

**Elliot Hospital**

**One Elliot Way, Manchester NH 03103**

**(603) 669-5300**

**Catholic Medical Center Emergency**

100 McGregor Street, Manchester, NH, 03102

**(603) 668-3545**

**Mental Health of Greater Manchester**

401 Cypress Street, Manchester, NH 03103

**(603) 668-4111**

**The Samaritans**

**Crisis: (603) 622-3836**

***Other Locations throughout southern NH***

**Bridges Domestic & Sexual Violence Support (office)**

16 Elm St., Milford, NH

**(603) 672-9833**

**Rape & Domestic Violence Crisis Center**

Concord, NH

**(603) 225-7376**

**NH Statewide Sexual Assault (24hr hotline)**

**1-800-277-5570**

**Legal Assistance**

**NH Legal Assistance**

**Legal Referral Service**

**668-2900 or 1-800-562-3174**

**1-800-639-5290**