

## **TITLE IX SEXUAL HARASSMENT POLICY**

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## **MAINE INTERPERSONAL VIOLENCE POLICY**

***Note to Readers: This policy contains essential information describing how Colby College addresses Sexual Harassment, as that term is defined by Title IX. Acts of sexual misconduct outside of Title IX are addressed in other policies. For more information regarding Title IX, the College offers a comprehensive guide for Parties and their Advisors, Witnesses and other individuals involved in the Grievance Procedure (Title IX and Maine Interpersonal Violence Guide for Parties, Advisors and Others). In addition, the College maintains a guide that provides more detail on the roles and responsibilities of the Confidential Resource Advisor. These guides can be accessed [HERE](#).***

***On May 5, 2022, Maine enacted into law [An Act Concerning Interpersonal Violence on College Campuses](#). This new legislation requires colleges to establish policies consistent with its requirements. Some elements of the new law overlap with Title IX. As a result, this policy, adopted in accordance with the new law, contains essential information describing how the College addresses Interpersonal Violence, which encompasses Sexual Violence, Intimate Partner Violence, and Stalking as those terms are defined by the law. For the purposes of this policy, this new legislation will be referred to as the “Maine law.”***

***In situations involving alleged sexual misconduct that falls under both the Title IX Policy and the Interpersonal Violence Policy, it is possible that a Respondent/Responding Party could be charged with alleged violations under both policies.***

***Finally, the federal Department of Education (DOE) is expected to issue a new set of Title IX regulations in late fall 2023. It is likely that this policy will be updated at that time. The College will notify the Colby community when this occurs. Until that time, this policy will govern the handling of Sexual Harassment and Interpersonal Violence matters.***

### **A. Introduction**

Colby College is committed to providing a community and workplace environment that is safe and secure for all students, staff, faculty and others who participate in the College’s academic, co-curricular and employment programs and activities (“education programs and activities”). Colby does not discriminate on the basis of sex (including sexual

orientation and gender identity), and is committed to responding promptly, equitably, and fairly to any reports or complaints of sex discrimination, **Sexual Harassment**, and **Interpersonal Violence**.

**Sexual Harassment** and/or **Interpersonal Violence** of any kind undermines the values and the mission of the College and contradicts the College's Affirmation. It is the responsibility of every member of the Colby community to foster an environment free of **Sexual Harassment** and **Interpersonal Violence**. All members of our community are encouraged to take reasonable and prudent action to prevent, stop and report acts of **Sexual Harassment** and **Interpersonal Violence**.

As required by the Title IX regulations and Maine law, the College will respond promptly in a manner that is not deliberately indifferent to reports and complaints of **Sexual Harassment** as defined under Title IX which take place within Colby's education programs and activities and **Sexual Violence**, **Intimate Partner Violence**, or **Stalking** as defined under the Maine law, including:

**Sexual Harassment:**

- **Quid Pro Quo Sexual Harassment by an Employee;**
- **Hostile Environment Sexual Harassment;**
- **Sexual Assault;**
- **Dating Violence;**
- **Stalking;**
- **Domestic Violence;** and
- **Retaliation** connected to reporting or participating in the Title IX processes.

**Interpersonal Violence:**

- **Sexual Violence;**
- **Intimate Partner Violence;**
- **Stalking;** and
- **Retaliation**, as defined under Title IX, connected to reporting or participating in the Interpersonal Violence processes.

Definitions of these terms and others are provided in Section K of this policy.<sup>1</sup> The College will provide **Supportive Measures** to any **Student** or **Employee** who is the alleged victim of **Sexual Harassment** or **Interpersonal Violence**. The College will also provide **Supportive Measures** to any **Respondent/Responding Party** after a **Report** is filed.

In addition to the conduct addressed in the Title IX Policy and the Interpersonal Violence Policy, the College prohibits other acts of sexual misconduct, which are

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<sup>1</sup> Terms in bold have a particular meaning, most of which are defined in this policy.

identified and addressed in the Student Code of Conduct (see the Sexual Misconduct section of the Student Handbook), the Faculty Handbook, and the Staff Handbook. Individuals who are not sure which policy applies to a particular situation are encouraged to speak with the **Title IX Coordinator**, a **Deputy Title IX Coordinator** or a Confidential Resource (see Sections E and G).

The College's disciplinary proceedings following alleged Title IX Policy or Interpersonal Violence Policy violations may not serve as a substitute for the criminal justice process. Likewise, these policies do not prevent or prohibit a person from seeking relief through a criminal prosecution or commencing a civil lawsuit.

This policy is reviewed and updated from time to time, as needed. The web-based version will always be the College's most current policy and should be reviewed as the most current version.

## **B. Effective Date**

This policy is effective on July 1, 2023 and covers all reports or formal complaints filed on or after that date. Reports of behavior occurring before this date which meet the definitions of prohibited conduct in the Interpersonal Violence Policy will be adjudicated using the process outlined in this policy but will use the definition of the behavior as it appeared in the Code of Conduct at the time of the reported behavior.

## **C. Jurisdiction of Title IX Policy**

This policy addresses Title IX **Sexual Harassment** against (1) any **Student** enrolled at the College and participating in the College's education programs and activities; (2) any **Employee** of the College; or (3) any individual (including alumni, faculty and staff) attempting to participate in the College's education programs and activities; or (4) applicants for enrollment or employment at the College. This policy covers **Sexual Harassment** that occurs during the course of the College's education programs and activities (including College-approved student organizations), whether they take place on campus or elsewhere in the United States. In accordance with the Title IX regulations and as a general rule, **Sexual Harassment** which occurs in a foreign study program, or in the United States but off-campus in a non-College education program or activity, is not covered by the Title IX Policy. However, such misconduct may be covered by other College policies, such as the Interpersonal Violence Policy or the Student Code of Conduct, and the College can provide appropriate **Supportive Measures** in such circumstances.

Individuals are encouraged to contact the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, or a Confidential Resource (see Section E and G) if they have questions concerning possible sexual misconduct of any kind or wish to make a report of **Sexual Harassment**.

## D. Jurisdiction of the Interpersonal Violence Policy

This policy also addresses **Interpersonal Violence** against (1) any **Student** who is enrolled or is seeking to be enrolled at the College and is a candidate for a degree or has taken a leave of absence as a result of having been a victim of **Sexual Violence**, **Intimate Partner Violence**, or **Stalking**, and (2) any **Employee** of the College. This policy addresses **Interpersonal Violence** regardless of where the alleged offense occurred.

Individuals are encouraged to contact the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, or a Confidential Resource (see Section E and G) if they have questions concerning possible sexual misconduct of any kind or wish to make a report of **Interpersonal Violence**.

## E. Title IX Coordinator/Deputy Coordinators

Anyone who has concerns or questions about sex discrimination, sexual misconduct, **Sexual Harassment**, or **Interpersonal Violence** or anyone who wishes to make a report of **Sexual Harassment** or **Interpersonal Violence**, is encouraged to contact either the **Title IX Coordinator** or any of the **Deputy Title IX Coordinators** for more information and assistance. After regular business hours, the **Title IX Coordinators** can be reached through Campus Security.

- **Title IX Coordinator:**  
Eustis 208  
207-859-4266  
[titleix@colby.edu](mailto:titleix@colby.edu)
- **Deputy Title IX Coordinator** for Athletics: Casie Runksmeier  
Harold Alfond Athletics and  
Recreation Center D319  
207-859-4941  
[casie.runksmeier@colby.edu](mailto:casie.runksmeier@colby.edu)
- **Deputy Title IX Coordinator** for Admissions: Molly Hodgkins  
Lunder House  
207-859-4816  
[molly.hodgkins@colby.edu](mailto:molly.hodgkins@colby.edu)
- **Deputy Title IX Coordinator** for Faculty: Carol A. Hurney  
Eustis 203A

207-859-4787  
[carol.hurney@colby.edu](mailto:carol.hurney@colby.edu)

- **Deputy Title IX Coordinator** for Staff: Cora Clukey  
122 Roberts  
207-859-5511  
[cora.clukey@colby.edu](mailto:cora.clukey@colby.edu)

The U.S. Department of Education’s Office of Civil Rights (“OCR”) is the entity charged with enforcing Title IX. Inquiries can be referred to:

**Office of Civil Rights, Boston Office**

Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02129-3921  
617-289-0111 (telephone)  
617-289-0140 (fax)  
[OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

**The Maine Human Rights Commission** (“MHRC”) is the entity charged with enforcing Maine’s nondiscrimination laws. Inquiries can be referred to:

Maine Human Rights Commission  
19 Union Street (street address)  
#51 State House Station (mailing address)  
Augusta, ME 04333  
207-624-6290 (telephone)  
207-624-8729 (fax)  
[maine.gov/mhrc/about](http://maine.gov/mhrc/about)

## **F. Emergency Resources**

### **1. Immediate Safety Concern**

If the safety of any individual is an immediate concern, involved parties or observers can contact:

- Police, by dialing 911 in the United States. Waterville Police Department, by dialing 207-680-4700 or at 10 Colby St, Waterville, ME 04901. Maine State Police, through this [link](#).
- Campus Security at 207-859-5911 (emergency number); 207-859-5530 (business number); 128 Roberts. Campus Security can assist individuals in

accessing the Title IX Coordinator, the Deputy Title IX Coordinators, and/or the Confidential Title IX Advocate outside of normal business hours.

## **2. Emergency Medical Treatment (including medical forensic exams)**

Transportation is available to these resources through Campus Security. Financial reimbursement for transportation for medical care may be reimbursed by the College.

- MaineGeneral Medical Center  
149 North Street  
Waterville, Maine 04901  
207-872-1000
- Northern Light Inland Hospital  
200 Kennedy Memorial Drive  
Waterville, Maine 04901  
207-861-3000

## **3. Counseling Services**

- Colby Counseling Services/Counselor Providers  
Garrison-Foster  
207-859-4490

## **G. Confidential Resources on Campus**

The following staff are available on campus on a confidential basis (“Confidential Resources”), meaning information disclosed to these individuals will not be reported or disclosed to the **Title IX Coordinator/Deputy Title IX Coordinators** or other members of the College community without the **Complainant/Reporting Party’s** consent, except in the limited circumstances described later in this section.

- Emily Schusterbauer  
Confidential Title IX Advocate/Confidential Resource Advisor  
Pugh Center 238  
207-859-4093  
[emily.schusterbauer@colby.edu](mailto:emily.schusterbauer@colby.edu)
- Kate Smanik  
Office of Religious and Spiritual Life/Confidential Resource Advisor  
Lorimer 034  
207-859-4272  
[kesmanik@colby.edu](mailto:kesmanik@colby.edu)
- Kevin Murray

Director of Student Access and Disability Services/Confidential Resource Advisor  
Eustis  
207-859-4475  
[kjmurray@colby.edu](mailto:kjmurray@colby.edu)

- [Colby Counseling Services/Counselor Providers](#)  
Garrison-Foster  
207-859-4490
- MaineGeneral College Health  
149 North Street, Second Floor  
Waterville, Maine 04901  
207-861-6860

Confidential Resources can assist individuals by explaining how the Title IX and Maine Interpersonal Violence Policy processes and other College processes work; assist individuals with accessing **Supportive Measures** and accommodations for disabilities (including but not limited to confidential mental health supports, short-term academic and/or athletic accommodations, temporary housing changes, obtaining a no-contact directive), resources and other services available on and off-campus, including the police. Confidential Resources can assist individuals with accessing resources to file for a Protection From Abuse Order through the civil court. If a Protection From Abuse Order is obtained, individuals can choose to inform the College through the **Title IX Coordinator/Deputy Title IX Coordinator**. Upon receipt of such notice, the College will offer individuals the opportunity to obtain a no-contact directive and/or a no-trespass order issued by the College. Confidential Resources can also assist individuals with contacting the **Title IX Coordinator/Deputy Title IX Coordinator**, if desired.

There are very rare circumstances where a Confidential Resource may have a professional obligation to divulge information disclosed to them, particularly if there is a serious risk of danger or threat to people or property. (In addition, there are requirements to report allegations of sexual and/or physical abuse of persons under the age of 18 under the Maine law).

Individuals who contact a Confidential Resource always have the option to make a report to a **Title IX Coordinator** at a later time. In situations involving allegations of **Sexual Harassment** or **Interpersonal Violence**, it is prohibited for a single Confidential Resource Advisor to work with both the **Complainant/Reporting Party** and **Respondent/Responding Party** in the same case.

## H. Other On-Campus Support Resources

- Academic Support
  - [The Dean of Studies Office](#)  
Eustis 107

## I. Off-Campus Support Resources

The following are examples of off-campus resources available to individuals. Resources are available 24 hours per day.

- [Sexual Assault Crisis and Support Center](#) (resource for **Reporting Parties**)  
(*Local sexual assault support center*)  
16 Commerce Plaza  
Winthrop, ME  
04364  
1-800-871-7741 (24/7)  
*The Sexual Assault Crisis and Support Center provides: direct support through a 24/7 helpline, support groups, and one to one advocacy; hospital, law enforcement reporting, and court accompaniment; and prevention education.*
- [RAINN National Sexual Assault Hotline](#) (resource for **Reporting Parties**)  
(*National sexual assault hotline*)  
1-800-656-4673  
*24/7 Support, advocacy, information, and referrals for local services for anyone who has experienced sexual violence or is supporting someone who has experienced sexual violence.*
- [The Family Violence Project](#) (resource for **Reporting Parties**)  
(*Domestic violence resource center*)  
83 Western Ave  
Augusta, ME  
04330  
1-866-834-HELP  
*The Family Violence Project provides: direct support through a 24/7 helpline, support groups, and one to one advocacy; law enforcement reporting and court accompaniment; emergency and longer term shelter options; and prevention education.*
- [Maine Victims' Compensation Program](#)  
207-624-7882 or 1-800-903-7882  
*The Maine Victims' Compensation Program provides financial reimbursement for losses suffered by victims of violent crime and their families.*
- [National Suicide Prevention Hotline](#)  
988  
*The Lifeline provides 24/7, free and confidential support for people in distress, prevention and crisis resources for you or your loved ones, and best practices for professionals in the United States.*

## **J. Responsibility of College Officers, Faculty and Staff to Report Prohibited Conduct**

The College requires all College officers, faculty and staff (including Community Advisors (“CAs”) and Area Residential Directors (“ARDs”)) to make a report to the **Title IX Coordinator/Deputy Title IX Coordinator** if they learn of incidents that may possibly violate this policy. A report does not need to be made if a **Student/Employee** is generally inquiring about the College’s Title IX/Interpersonal Violence policy or process, or if a **Student/Employee** is talking generally about a situation and does not identify any individual involved in the situation. Likewise, a support or hearing **Advisor** does not need to report an incident revealed to them by the **Advisor’s Party**. Failure to report can result in corrective action or sanctions.

**The only individuals exempted from this reporting requirement are the Confidential Resources listed in Section G above.**

**Students** and **Employees** should be aware that if they discuss a possible violation of this policy with a non-Confidential Resource at the College, that individual will be obligated to report it to the **Title IX Coordinator/Deputy Title IX Coordinator**. In speaking with individuals, if College officers, faculty and staff believe a **Student/Employee** is about to disclose a possible violation of this policy, they should inform the **Student/Employee** that they are not a Confidential Resource and will have to report anything the student/employee discloses to them. However, even if a College officer, faculty or staff member has to make a report, this does not automatically lead to action under this policy on the part of the College. Except in rare instances, the **Student/Employee** will still retain the discretion whether or not to file a **Formal Complaint**.

## **K. Definitions**

This policy covers two particular types of sexual misconduct: **Sexual Harassment** as defined under Title IX and **Sexual Violence, Intimate Partner Violence, or Stalking** as defined under the Maine law. “Sexual misconduct” is an umbrella term used by the College to encompass a full range of conduct of a sexual nature that is prohibited in our community, whether under Title IX, the Maine law, or another College policy. Throughout this policy, whenever any terms defined in this section are used, they appear in bold type.

**IMPORTANT NOTE:** In Section K, you will see that some terms and some types of prohibited conduct appear twice; while other terms and types of prohibited conduct appear to be similar, but not identical. This is because certain terms and types of conduct may have one definition under Title IX and another under the

**Maine Interpersonal Violence law. You do not need to determine which terms or which type of conduct applies to your situation OR whether a matter is covered under the Title IX regulations, Maine law, Student Code of Conduct, or a combination. The Title IX Coordinator will assist you in explaining which policy (or policies) applies to your situation. In cases where there are no differences between definitions, the Title IX definition governs.**

**1. General Terms: Title IX Policy (Federal Title IX law)**

- A. Adjudicator:** An independent, trained individual selected by the College to preside at the hearing of a **Formal Complaint**, make determinations as to whether a **Respondent** is responsible/not responsible, and to impose any remedies and/or disciplinary sanctions.
- B. Advisor:** An individual chosen by a **Party** to assist them during the course of the **Grievance Procedure**. A **Party** may have more than one **Advisor** – such as an **Advisor** for emotional support (a support Advisor) and an **Advisor** for the hearing (a hearing **Advisor**). An **Advisor** may be an attorney. If a **Party** does not have an **Advisor** for the hearing, the College shall provide an **Advisor** for the Party at the College’s expense. The role of **Advisors** is discussed in greater detail in the College’s ***Title IX and Maine Interpersonal Violence Guide for Parties, Advisors and Others***.
- C. Complainant:** The Title IX regulations define the **Complainant** as (i) the possible victim of **Sexual Harassment** identified in a **Report** or (ii) a person who has filed a **Formal Complaint**. A **Complaint** may include more than one **Complainant**, such as in instances where a group of individuals are alleging they are victims of **Sexual Harassment** by one or more **Respondents**.
- D. Consent:** In the context of sexual activity, **Consent** means all parties reasonably understand that they freely agree, through words and/or actions, to engage in sexual activity. **Consent** may be withdrawn at any time. A person does not “freely agree” to sexual activity when the agreement results from force, violence, threats, intimidation or coercion. A person does not “freely agree” where the person was incapacitated, and the other party knew or should have known of that **Incapacitation**.
- E. Day:** As used in this policy, a **Day** means a “business day,” Monday through Friday, and does not include days when the College is officially closed. Please check the College calendar, because Colby does not close on all federal or state holidays, but may also be closed at other times.
- F. Employee:** As used in this policy, an **Employee** is a staff or faculty member who is employed or has applied for employment, or is a volunteer in the College’s education programs and activities, and who has the right to file a **Formal Complaint** of **Sexual Harassment** under the Title IX regulations and

this policy. A **Student** who is employed by the College may be considered an **Employee** under this policy, depending upon the particular circumstances.

- G. Formal Complaint:** A **Formal Complaint** can only be initiated by the **Complainant of Sexual Harassment** (although in certain circumstances the **Title IX Coordinator** may file a formal complaint on behalf of the College). A formal complaint must be made in writing to the **Title IX Coordinator** or a **Deputy Title IX Coordinator**, and triggers the College's Title IX **Grievance Procedure**.
- H. Grievance Procedure:** The Title IX/Interpersonal Violence **Grievance Procedure** is initiated through the filing of a **Formal Complaint** and is the process by which the **Formal Complaint** is investigated and resolved.
- I. Incapacitation:** In the context of sexual activity, **Incapacitation** means that a person lacks the ability or capacity to make rational, reasonable judgments about whether to **Consent** to sexual activity. **Incapacitation** exists when a person is asleep or unconscious, and can also exist because of a temporary mental or physical health condition, or when a person suffers from a substantial impairment of their mental or physical faculties as a result of drug or liquor use. Some indications of **Incapacitation** may include lack of control over physical movements, lack of awareness of circumstances or surroundings, and slurred speech.
- J. Investigator:** An independent, trained individual selected by the College to investigate a **Formal Complaint**.
- K. Parties:** The **Parties** are the **Complainant(s)** and **Respondent(s)** to a **Formal Complaint**.
- L. Report:** Any individual may make a **Report** of possible sex discrimination or sexual misconduct, whether the individual is the possible victim or not. A **Report** is not the same as a **Formal Complaint of Sexual Harassment**, which is defined below. A report triggers an obligation by the Title IX Coordinator to discuss with, and provide to the **Complainant** (if known) appropriate **Supportive Measures**; and to explain the **Formal Complaint** process under this policy.
- M. Respondent:** The Title IX regulations define the **Respondent** as the individual who has had a **Formal Complaint** filed against them for possibly engaging in **Sexual Harassment**. A **Complainant** may identify more than one **Respondent**, such as a complaint against individuals who allegedly engaged in **Sexual Harassment** as part of an organization, club or other campus group or team.

- N. Student:** As used in this policy, a **Student** is an individual who is enrolled/participating in or attempting to enroll/participate in the College's education programs and activities, and who has the right to file a **Formal Complaint of Sexual Harassment** under the Title IX regulations and this policy.
- O. Supportive Measures:** Steps taken by the College to support a **Student or Employee** who is reported to be the possible victim of **Sexual Harassment** and/or has filed a **Formal Complaint of Sexual Harassment**; or who is a **Respondent** to a **Formal Complaint**. **Supportive Measures** may also be provided by the Confidential Title IX Advocate and to individuals affected by possible sexual misconduct violations under other College policies. **Supportive Measures** are discussed in more detail in Section O.
- P. Title IX Coordinator/Deputy Coordinators:** The **Title IX Coordinator** is a trained administrator who is designated and authorized to oversee the College's compliance with Title IX and to assist individuals through the Title IX process. **Deputy Title IX Coordinators** are trained administrators or staff members who assist in the implementation of the Title IX policy and processing of Title IX reports. A **Deputy Title IX Coordinator** may serve as the lead **Title IX Coordinator** in a particular case where the **Title IX Coordinator** has a conflict of interest or is unavailable.
- Q. Witness:** An individual who has relevant information concerning a **Formal Complaint**. **Witnesses** may include expert witnesses.

#### **General Terms: Interpersonal Violence Policy (Maine law)**

- A. Affirmative Consent:** **Consent** to sexual activity that can be revoked at any time. "**Affirmative Consent**" does not include silence, lack of resistance or consent given while **Intoxicated**.
- B. Employee:** An individual who is employed by an **Institution of Higher Education**, including a full-time, part-time or contracted **Employee**, or an individual who was employed by an institution of higher education, including a full-time, part-time or contracted **Employee**, but has taken a leave of absence or terminated the employment as a result of having been a victim of **Sexual Violence, Intimate Partner Violence, or Stalking** or for any other reason.
- C. Institution of Higher Education:** Any public, private, nonprofit, or for-profit postsecondary school chartered, incorporated, or otherwise organized in the State with an established physical presence in the State.
- D. Intoxication:** A substantial impairment of an individual's mental or physical faculties as a result of drug or liquor use ([28-A M.R.S. § 2503\(2\)](#)).

- E. Reporting Party:** Any **Student** or **Employee** who reports having experienced an alleged incident of **Sexual Violence, Intimate Partner Violence, or Stalking** at an **Institution of Higher Education**.
- F. Responding Party:** Any individual who has been accused of an alleged incident of **Sexual Violence, Intimate Partner Violence, or Stalking** at an **Institution of Higher Education**.
- G. Student:** An individual who is enrolled or is seeking to be enrolled in an **Institution of Higher Education** in the State and is a candidate for a degree or diploma or graduate certificate or has taken a leave of absence as a result of having been a victim or **Sexual Violence, Intimate Partner Violence, or Stalking**.
- H. Title IX Coordinator:** An **Employee** at an **Institution of Higher Education** who is responsible for institutional compliance with the so-called Title IX provisions of the federal Education Amendments of 1972, Public Law 92-318, as amended.
- I. Trauma-Informed Response:** A response by an individual who has received specific training in the complexities of trauma caused by **Sexual Violence, Intimate Partner Violence, or Stalking** including training on:
- The neurobiological impact of trauma;
  - The influence of societal stereotypes or other misconceptions relating to the causes and impacts of trauma on an individual experiencing the trauma caused by **Sexual Violence, Intimate Partner Violence, or Stalking**;
  - Methodologies for avoiding perpetration of the trauma caused by **Sexual Violence, Intimate Partner Violence, or Stalking**; and
  - How to conduct an effective investigation of trauma.

## 2. Prohibited Conduct

Prohibited conduct that constitutes **Sexual Harassment** under the Title IX regulations and/or **Interpersonal Violence** under the Maine law within the context of the College's education programs and activities are defined below. **Sexual Harassment** and **Interpersonal Violence** can be committed by any person regardless of gender, sexual orientation or gender identity; and can be committed using technology.

It is possible that some conduct may be covered by both laws, as well as the Student Code of Conduct, and the **Title IX Coordinator** will provide direction and guidance if this occurs. For other sexual misconduct and related offenses, please see the Sexual Misconduct section of the Student Handbook and the conduct policies and processes applicable to faculty or staff in the Faculty Handbook and Staff Handbook.

Any questions about the meaning of the terminology below should be directed to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, the **Confidential Title IX Advocate**, or a Confidential Resource Advisor.

### **Prohibited Conduct under Title IX (Federal Title IX law)**

**A. Quid Pro Quo Sexual Harassment by an Employee.** The Title IX regulations define **Quid Pro Quo Sexual Harassment** by an **Employee** as follows:

- 1) When an **Employee** conditions an aid, benefit or service to a **Student** (including but not limited to a grade, participation in a program/activity, a recommendation, summer employment position or other benefit) on their participation in unwelcome conduct of a sexual nature (as determined by a reasonable person); or
- 2) When an **Employee** conditions an aid, benefit or service to an **Employee** (including but not limited to an employment position, a promotion, a favorable evaluation or other benefit) on their participation in unwelcome conduct of a sexual nature.

**B. Hostile Environment Sexual Harassment.** The Title IX regulations define **Hostile Environment Sexual Harassment** as unwelcome conduct (as determined by a reasonable person) that is so severe, pervasive AND objectively offensive that it effectively denies a **Student** or **Employee** equal access to the College's education programs and activities.

**C. Sexual Assault.** The Title IX regulations define **Sexual Assault** as an offense classified as a **Forcible or Non-forcible Sex Offense** under the uniform crime reporting system of the FBI, which are:

- 1) **Forcible Sex Offenses** – Any sexual act directed against another person, without the **Consent** of the victim, including instances where the victim is in a state of **Incapacitation**.
  - **Forcible rape** – Sexual intercourse with a person, forcibly and/or without that person's **Consent** or in instances where the victim is in a state of **Incapacitation**.
  - **Forcible oral or anal sexual intercourse** with another person, forcibly and/or without that person's **Consent** or in instances where the victim is incapable of giving **Consent** because of their youth or because of **Incapacitation**.
  - **Sexual assault with an object** – Use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or without that person's

**Consent** or in instances where the person is incapable of giving **Consent** because of their youth or because of **Incapacitation**.

- **Forcible fondling** – The touching of the private body parts (genitals, buttocks or breasts) of another person for the purpose of sexual gratification, forcibly and/or without that person’s **Consent** or in instances where the person is incapable of giving **Consent** because of their youth or because of **Incapacitation**.

2) **Non-Forcible Sex Offenses** include incest and statutory rape. “Statutory rape” in Maine is defined as a sexual act with another person who is not the perpetrator’s spouse and who is under the age of 14, or who is 14 or 15 and the perpetrator is at least 5 years older than the other person.

**R. Dating Violence.** The Title IX regulations define **Dating Violence** as physical or sexual abuse, threats of physical or sexual abuse, or emotional abuse committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors: (a) length of relationship; (b) type of relationship; (c) the frequency of interaction between persons in the relationship.

**S. Stalking.** The Title IX regulations define **Stalking** as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer severe emotional distress.

**T. Domestic Violence.** The Title IX regulations define **Domestic Violence** as physical or sexual abuse, or threats of physical or sexual abuse committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Maine, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family laws of Maine.

In Maine, this includes the following crimes (more information available through legal citations): **Domestic violence assault** ([17-A M.R.S. § 207-A](#)); **Domestic violence criminal threatening** ([17-A M.R.S. § 209-A](#)); **Domestic violence terrorizing** ([17-A M.R.S. § 210-B](#)), **Domestic violence stalking**

[\(17-A M.R.S. § 210-C\)](#); **Domestic violence reckless conduct** ([17-A M.R.S. § 211-A](#)).

- G. Retaliation.** No individual may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX, or because the individual has made a **Report** or **Formal Complaint**, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding or hearing. Reports of retaliation should be made to the **Title IX Coordinator** and shall be addressed and resolved promptly and equitably through the **Grievance Procedure**. The exercise of First Amendment rights shall not constitute prohibited **Retaliation**.
- H. False Reports and Statements.** False reports and/or making materially false statements in bad faith in connection with this policy to any College official or in the course of any College proceeding, is prohibited and will be addressed through the conduct processes applicable to students, faculty, or staff, based on the nature of the report. A finding that a **Respondent** is not responsible for a violation of the Title IX policy after a hearing (or vice versa) does not mean that a report or statement was made in bad faith.
- I. Faculty and Staff Relationships with Students.** It is a violation of College policy for any officer, faculty, administrator, or staff member of the College to engage in a romantic, dating and/or sexual relationship with a **Student**. Individuals who have questions about this issue should consult with the **Title IX Coordinator/Deputy Title IX Coordinator** or a **Confidential Resource** (see Section E and G).

### **Prohibited Conduct under the Interpersonal Violence Law (Maine law)**

- A. Sexual Violence.** Any conduct that constitutes:
- Any crime under [Title 17-A, chapter 11](#) (Sexual Assaults);
  - Unauthorized dissemination of certain private images pursuant to [Title 17-A, section 511-A](#);
  - Aggravated sex trafficking or sex trafficking pursuant to [Title 17-A, section 852 or 853](#) respectively; or
  - Sexual harassment as defined in [Title 14, section 6000, subsection 2-A](#).
- B. Intimate Partner Violence.** Any of the acts that constitute abuse under [Title 19-A, section 4002, subsection 1, paragraphs A to H](#) that are committed by an individual who is or has been in a social relationship with another individual of an intimate nature regardless of whether the individual were or are sexual partners.
- C. Stalking.** Any conduct that constitutes the crime of stalking under [Title 17-A, section 210-A](#).

## **L. Amnesty for Possible Conduct Violations Related to Sexual Harassment and Interpersonal Violence Reports**

The College strongly encourages individuals to report **Sexual Harassment** and **Interpersonal Violence**, as it takes these matters very seriously. As a result, the College will generally not subject an individual making such a **Report** or a **Complainant/Reporting Party** to disciplinary action for possible violations of the Student Code of Conduct. These violations refer solely to personal consumption of alcohol or drugs, trespassing, or unauthorized entry of the College's facilities connected with the reported incident. However, amnesty only applies if the **Report** was made in good faith and if the violation was not egregious, and did not result in harm to other individuals.

The extent of any amnesty will be considered in light of the facts of a particular case, and the College will have sole discretion to determine whether or not to address co-occurring conduct violations of the Code of Conduct.

The College also has the discretion to encourage individuals who are granted amnesty from disciplinary sanctions to engage in substance use counseling or other appropriate services.

## **M. How to Make a Report of Sexual Harassment or Interpersonal Violence**

**IMPORTANT NOTE:** In the sections below, the terms **Report**, **Formal Complaint**, **Supportive Measures**, and **Grievance Procedure**, as defined by Title IX, apply to **alleged incidents of Sexual Harassment and Interpersonal Violence**.

Any individual who is required to make a report, and any other individual who wishes to make a report of **Sexual Harassment** or **Interpersonal Violence** should contact either the **Title IX Coordinator** or any one of the **Deputy Title IX Coordinators** below at any time. Reports after regular business hours can be made through Campus Security at 207-859-5911 (emergency number); 207-859-5530 (business number). Campus Security is located in 128 Roberts.

There is no time limit on making reports of **Sexual Harassment** or **Interpersonal Violence**.

- **Title IX Coordinator:**

Eustis 210A  
207-859-4266  
[titleix@colby.edu](mailto:titleix@colby.edu)

- **Deputy Title IX Coordinator** for Athletics: Casie Runksmeier  
Harold Alfond Athletics and  
Recreation Center D319  
207-859-4941  
[casie.runksmeier@colby.edu](mailto:casie.runksmeier@colby.edu)
- **Deputy Title IX Coordinator** for Admissions: Molly Hodgkins  
Lunder House  
207-859-4816  
[molly.hodgkins@colby.edu](mailto:molly.hodgkins@colby.edu)
- **Deputy Title IX Coordinator** for Faculty: Carol A. Hurney  
Eustis 203A  
207-859-4787  
[carol.hurney@colby.edu](mailto:carol.hurney@colby.edu)
- **Deputy Title IX Coordinator** for Staff: Cora Clukey  
122 Roberts  
207-859-5511  
[cora.clukey@colby.edu](mailto:cora.clukey@colby.edu)

Confidential Resources for individuals who are not required to make a **Report** to a **Title IX Coordinator** or who are not ready to make a **Report** are listed in Section G.

**Reports** may be made anonymously, but due to the nature of anonymous reports, the College's ability to contact the possible victim, provide **Supportive Measures**, or offer the option of filing a **Formal Complaint** may be hampered by the inability of obtaining further information when an anonymous report is made. Individuals may bring a friend or support person to meetings with the **Title IX Coordinator** or Confidential Title IX Advocate to discuss Title IX matters, including a possible **Report**.

## **N. What Happens After A Report of Sexual Harassment or Interpersonal Violence Is Made?**

After a **Report** of **Sexual Harassment** or **Interpersonal Violence** is made, the **Title IX Coordinator** or one of the **Deputy Title IX Coordinators** will meet with the **Complainant/Reporting Party** if they are identified in the **Report**. In addition to determining whether Title IX, Maine's Interpersonal Violence law, or both apply to the situation, the **Title IX Coordinator/Deputy Title IX Coordinator** will discuss **Supportive Measures** that may be appropriate in the particular circumstances (see Section O for detailed discussion of **Supportive Measures**). The **Title IX Coordinator/Deputy Title IX Coordinator** will then implement any needed **Supportive**

**Measures.** Such measures will remain confidential to the extent possible in the particular circumstances. In some situations, specific administrators, faculty, staff and/or students may need limited information in order to effectively implement **Supportive Measures.**

The **Title IX Coordinator/Deputy Title IX Coordinator** will explain the process for filing a **Formal Complaint** under this policy, and will also explain the **Grievance Procedure** that follows a **Formal Complaint.** There is no obligation to file a **Formal Complaint.**

If a **Complainant/Reporting Party** chooses not to file a **Formal Complaint,** they may continue to receive appropriate **Supportive Measures.**

## O. Supportive Measures

**Supportive Measures** are individualized services offered to a **Complainant/Reporting Party** or **Respondent/Responding Party** following a **Report of Sexual Harassment or Interpersonal Violence.** Such **Supportive Measures** may continue and may be modified based on the **Party's** needs if a **Formal Complaint** is filed, during the **Grievance Procedure,** and after the **Grievance Procedure** is completed.

**Supportive Measures** are also available to individuals through the Confidential Title IX Advocate (see Section G, above). **Supportive Measures** may also be available to **Witnesses** or participants in a Title IX process. Individuals involved with possible violations of sexual misconduct under other College policies may also receive **Supportive Measures.**

**Supportive Measures** are without charge to the **Party** and are designed to facilitate each **Party's** access to education programs and activities, without overly burdening the other **Party.** In addition, **Supportive Measures** may not be overly burdensome or disciplinary/punitive to a **Respondent/Responding Party** prior to a finding of responsibility in the **Grievance Procedure.** The **Title IX Coordinator** and/or Confidential Resource Advisor works with the **Parties** throughout the process, and **Supportive Measures** can be modified to reflect any needed changes at any point in the process. The **Title IX Coordinator** shall document **Supportive Measures,** including any instance where it is deemed that **Supportive Measures** are not necessary or are not desired by the **Parties.**

The following are examples of types of **Supportive Measures** that may be implemented, depending on the particular circumstances of the individuals involved and the claimed violation; this is not an exhaustive list.

- Referrals for mental health and medical services, on and off campus;
- Referrals to other support services and resources, on and off campus;
- Academic and/or athletic/co-curricular adjustments (such as deadline extensions, course changes, late add/drops, incompletes);

- Disability accommodations to participate in the Title IX process;
- Housing assistance (safe room, temporary change of room/residence hall, etc.);
- Assistance with changes in campus transportation;
- Assistance with changes in campus employment (schedule change, location change, etc.);
- Assistance with taking a leave of absence;
- Assistance with obtaining no-contact directives and/or no-trespass orders;
- Assistance in finding an **Advisor** for the **Formal Complaint** process;
- Assistance in understanding the Title IX process and other College processes.

## P. How to Make a Formal Complaint

A **Complainant/Reporting Party** may make a **Formal Complaint** to the **Title IX Coordinator**. **Formal Complaints** cannot be anonymous. The **Formal Complaint** may be filed in writing or through an electronic submission, and must include the **Complainant/Reporting Party's** physical or digital signature (or otherwise indicate that the **Complainant/Reporting Party** is the one filing the **Formal Complaint**). The **Formal Complaint** must include the following:

- Basic information about the possible violation(s) of **Sexual Harassment** and/or **Interpersonal Violence** (such as date, time, location, type of incident, name(s) of individuals involved)
- A request that Colby investigate the allegation(s).

**Formal Complaints** may be filed with the following individuals:

- **Title IX Coordinator:**

Eustis 208  
207-859-4266  
[titleix@colby.edu](mailto:titleix@colby.edu)

- **Deputy Title IX Coordinator** for Athletics: Casie Runskmeier  
Harold Alfond Athletics and  
Recreation Center D319  
207-859-4941  
[casie.runksmeier@colby.edu](mailto:casie.runksmeier@colby.edu)
- **Deputy Title IX Coordinator** for Admissions: Molly Hodgkins  
Lunder House  
207-859-4816  
[molly.hodgkins@colby.edu](mailto:molly.hodgkins@colby.edu)

- **Deputy Title IX Coordinator** for Faculty: Carol A. Hurney  
Eustis 203A  
207-859-4787  
[carol.hurney@colby.edu](mailto:carol.hurney@colby.edu)
- **Deputy Title IX Coordinator** for Staff: Cora Clukey  
122 Roberts  
207-859-5511  
[cora.clukey@colby.edu](mailto:cora.clukey@colby.edu)

### 1. Formal Complaint Filed by Title IX Coordinator

In rare cases where the **Title IX Coordinator** determines that the specific circumstances warrant pursuing a **Formal Complaint** (such as when the alleged **Respondent** has previously been found responsible for serious sexual misconduct or there may be a safety threat to the College community), the **Title IX Coordinator** may file a **Formal Complaint** on behalf of the College. In such cases, the **Complainant/Reporting Party** will receive advance notice as well as notices of activities at various points in the **Grievance Procedure**, but is not a party to the case. Likewise, the **Title IX Coordinator** is not a **Party**, for purposes of this policy, if they file a **Formal Complaint** on behalf of the College.

### 2. Consolidation of Formal Complaints

The **Title IX Coordinator** may consolidate **Formal Complaints** where circumstances warrant. Such circumstances might include, but are not limited to, situations where a **Complainant/Reporting Party** has filed a formal complaint of sexual harassment against more than one **Respondent/Responding Party** in regard to the same incident; there are multiple complaints against a **Respondent/Responding Party**; or when a **Respondent/Responding Party** makes a **Formal Complaint** against the **Complainant/Reporting Party** arising out of the same facts or circumstances.

### 3. Dismissal of Formal Complaints

The **Title IX Coordinator** must dismiss a **Formal Complaint**:

- a. If the conduct alleged in the **Formal Complaint** does not constitute **Sexual Harassment** or **Interpersonal Violence** as defined in this policy;
- b. If the conduct does not occur within the jurisdiction governing the reported behavior;

However, even if the **Formal Complaint** is dismissed, if the conduct alleged is covered by another College policy, the conduct may be addressed under that policy, depending on the circumstances.

The **Title IX Coordinator** may dismiss a formal complaint:

- a. If a **Complainant/Reporting Party** withdraws the **Formal Complaint**, or withdraws particular allegations within the **Formal Complaint**;
- b. The **Respondent** is no longer enrolled in or employed by the College; or
- c. If there are specific circumstances that prevent the College from gathering evidence sufficient to reach a determination regarding the **Formal Complaint**.

If a **Formal Complaint** is dismissed for any reason, the **Title IX Coordinator** will promptly and simultaneously send written notice to the **Parties** explaining the reasons. **Parties** have the opportunity to appeal dismissals in accordance with this policy (see Section Q subsection 9).

Under the Title IX regulations, the **Title IX Coordinator** cannot dismiss a **Formal Complaint** based on an assessment that it has no merit, is frivolous, or has been previously investigated. Any **Formal Complaint** that is not dismissed for one of the reasons specified above must be processed through the **Grievance Procedure** unless it is resolved through an informal resolution process (see Section Q subsection 3).

## **Q. What Happens After a Formal Complaint Is Made?: The Title IX/Interpersonal Violence Grievance Procedure**

A **Formal Complaint** initiates the **Title IX/Interpersonal Violence Grievance Procedure**. The **Title IX Coordinator** has general responsibility for implementing this procedure. This section outlines the significant steps in the process in summary form. Detailed information about the procedure can be found in the College's ***Title IX and Maine Interpersonal Violence Guide for Parties, Advisors and Others***.

### **1. General Obligations of the College**

- a. The College will:
  - Treat **Complainants/Reporting Parties** and **Respondents/Responding Parties** equitably;
  - Not presume a **Respondent/Responding Party** is responsible until and unless such a determination is made following a hearing;
  - Objectively evaluate all relevant evidence;

- Ensure that any individuals involved in the **Grievance Procedure (Title IX Coordinator or Deputy Title IX Coordinator, investigators, adjudicator, and any others)** have appropriate training, and do not have conflicts of interest or bias;
  - Follow reasonably prompt time lines for conclusion of the **Grievance Procedure** and provide reasons for delay;
  - Provide all required notices of meetings and hearings;
  - Provide opportunities for **Parties** to review and respond to relevant evidence, both favorable and unfavorable;
  - Provide **Parties** with the opportunity to be accompanied to any meetings or hearings by an **Advisor** of their choice;
  - Provide **Parties** with the opportunity to present **Witnesses**, as well as other relevant evidence;
  - Not restrict the parties from speaking about the case for their own emotional support and to prepare their case;
  - Assume the burden of gathering evidence and of proof (rather than such burdens resting with the parties); and
  - Comply with all applicable confidentiality and privacy laws and regulations during the Title IX process. This includes keeping the identities of **Parties** confidential, except as necessary to carry out a disciplinary proceeding or as otherwise permitted under state and federal law.
- b. In addition to the obligations under the Title IX regulations, the College provides up to \$500 for student **Parties** to consult with an attorney at any point in the **Grievance Procedure**.
- c. **Deadlines and Extensions:** In general, the College will attempt to complete the **Grievance Procedure** within ninety (90) **Days**. However, there may be circumstances when the process will take longer due to the absence or temporary unavailability of individuals important to the process, difficulties in obtaining evidence and other reasonable considerations.

Parties may make requests for short extensions of deadlines imposed on them in the **Grievance Procedure** for good cause (illness, unavoidable absence of **Advisor**, etc.). Any such request must be made to the **Title IX Coordinator** in writing and must explain the reason an extension is requested. The **Title IX Coordinator** shall treat requests from **Parties** for extensions equitably, and shall notify the **Parties** of any extensions that are granted or denied.

## 2. Notice to Parties and Initial Steps

- a. The **Title IX Coordinator** will provide written notice of the **Formal Complaint** and allegations of **Sexual Harassment** or **Interpersonal Violence** potentially constituting prohibited conduct under this policy. The notice will include:

- Notice regarding the **Grievance Procedure** and the availability of an informal resolution process;
  - Sufficient details known at the time (including identities of **Parties**, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (no less than five (5) **Days**).
  - As required by the Title IX regulations, a statement that the **Respondent/Responding Party** is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the **Grievance Procedure**;
  - Notice that the **Parties** may have an **Advisor** of their choice, who may be an attorney;
  - Notice that the **Parties** may inspect and review evidence;
  - Notice of provisions in the conduct processes applicable to students, faculty, or staff that prohibits making false reports or providing materially false information in bad faith during the **Grievance Procedure**;
  - Notice that the **Parties** may discuss their case. However, **Parties** should avoid statements that are defamatory; or that disclose other conduct which could be viewed objectively as constituting intimidation or retaliation; or that may impair the integrity of the investigation or **Grievance Procedure**;
  - Notice that the College, not either **Party**, has the burden of proof in determining whether a **Party** is responsible or not; and
  - Notice of the name of the **Investigator**, with sufficient time (no less than five (5) **Days**) to raise then-known reasonable concerns of conflict of interest or bias, and the basis for those concerns, to the **Title IX Coordinator**.
  - Notice that the **Parties** can raise reasonable concerns regarding the **Title IX Coordinator** or a **Deputy Title IX Coordinator**, to the **Title IX Coordinator/designee**.
  - Notice that either **Party** has resources available to them that includes descriptions of the types of and contact information for counseling, health, safety, academic and other support services available on campus or within the local community or region. These resources may differ between **Parties**, as resources that support **Complainants/Reporting Parties** may not support **Respondents/Reporting Parties** and vice versa.
- b. If additional allegations become known at a later time, the original notice to the **Parties** will be supplemented. Misconduct which subsequently becomes known but is not covered by this policy will be addressed pursuant to other applicable College policies.
- c. The **Title IX Coordinator** will discuss **Supportive Measures** with each **Party** and implement such measures as appropriate (see Section O).

- d. Prior to a hearing, claims of conflicts of interest, bias or other concerns regarding College officials involved in the **Grievance Procedure** will be resolved by the **Title IX Coordinator**, or if the **Title IX Coordinator** is the subject of a claim, one of the **Deputy Title IX Coordinators**. At the hearing, such claims may be raised with the **Adjudicator**, even if previously addressed.

### 3. Informal Resolution Process

After a **Formal Complaint** has been filed, and if the **Title IX Coordinator** believes the circumstances are appropriate, the **Title IX Coordinator** may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and hearing process. An informal resolution process can be started at any time during the **Grievance Procedure**. However, an informal resolution process cannot be used to resolve a **Formal Complaint** when a student is the **Complainant/Reporting Party** and the **Respondent/Responding Party** is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the **Parties**; restorative justice; acknowledgment of responsibility by a **Respondent/Responding Party**; apologies; agreed upon sanctions against a **Respondent/Responding Party** or requirements to engage in specific services; or **Supportive Measures**. **Parties** must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time.

Any terms in an informal resolution that include involvement by the College must be approved by the **Title IX Coordinator**. If an informal resolution agreement is reached, it must be signed by the **Parties** and the College. Once signed, the agreement is final and binding according to its terms.

If an informal resolution process does not resolve the **Formal Complaint**, nothing from the informal resolution process may be considered as evidence in the **Grievance Procedure**. An informal resolution facilitator may not be called as a **Witness** in a hearing, unless approved by the **Adjudicator**.

### 4. Emergency Leave

The College, in consultation with the **Title IX Coordinator**, may place a **Respondent/Responding Party** on emergency leave at any point after a **Report** is filed:

- a. If there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety of a student or other individual arising from the allegations of **Sexual Harassment**,

including the **Respondent/Responding Party's** reported post-incident action or behavior. Examples of such circumstances might include, but are not limited to, a continued threat of violence against a **Complainant/Reporting Party** by a **Respondent/Responding Party**, or a **Respondent/Responding Party's** threat of self-harm due to the allegations.

- b. The **Respondent/Responding Party** will be provided notice of the emergency leave, and will be provided an opportunity to challenge the decision following the removal (this is an opportunity to be heard, not a hearing). The **Respondent/Responding Party** has the burden to demonstrate why the emergency leave was unreasonable.
- c. Any such decision to place a **Student** or **Employee** on emergency leave shall be made in compliance with any applicable disability laws, including the IDEA Individuals with Disabilities Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act and the Maine Human Rights Act.

## 5. Investigation Process

The **Title IX Coordinator** will appoint the **Investigator** to investigate the **Formal Complaint**. The **Investigator** will:

- a. Meet with the **Parties** after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
- b. Allow **Parties** to have their **Advisor** at all meetings (and allow participation of **Advisors** consistent with the College's *Title IX and Maine Interpersonal Violence Guide for Parties, Advisors and Others*.) As part of the investigation, **Advisors** may not be asked to disclose their communications regarding the Title IX matter with the **Advisor's Party**, unless the **Party** consents. Please review the Guide for a discussion on the roles and types of **Advisors**.
- c. Decide the procedures for gathering evidence. As a part of this procedure, the **Investigator** shall allow **Parties** to identify **Witnesses** and submit favorable and unfavorable evidence.
- d. Interview **Witnesses** and conduct such other activities that will assist in ascertaining facts (site visits, review of documents, etc.). The **Investigator** shall prepare written summaries of all interviews.
- e. Consider evidence that is relevant and directly related to the allegations in the **Formal Complaint**.
- f. Prior to completing the investigation report, provide the **Parties** and their **Advisors** with an equal opportunity to inspect and review any evidence that is

obtained in the investigation that is directly related to the allegations in the **Formal Complaint**. This includes all such directly-related evidence, whether the **Investigator** intends to rely upon it or not in the investigation report, as well as evidence favorable and unfavorable to the **Parties**. The **Parties** and **Advisors** must acknowledge that they will not further disseminate the evidence record to any person, but may use it to prepare for the hearing. The **Parties** will be provided ten (10) **Days** to submit a written response. The **Investigator** shall consider the **Parties'** written responses prior to completing the investigation report.

- g. Create an investigation report that fairly summarizes relevant evidence and submit it to the **Title IX Coordinator**. The **Investigator** may, at their discretion, comment on the credibility of a **Party, Witness**, or documentary evidence. Credibility determinations shall not be based on a person's status as a **Complainant/Reporting Party, Respondent/Responding Party, or Witness**.
- h. The investigation report shall contain a record of decisions regarding any evidence that is not shared with the **Parties**, including evidence protected by a legal privilege. This record should contain the basis for any decision to not share evidence with the **Parties**.

In turn, the **Title IX Coordinator** shall:

- a. Provide a hard or electronic copy of the investigation report to the **Parties** and **Advisors** (if any) at least ten (10) **Days** prior to the scheduled hearing, for their review and written responses. The **Parties** and **Advisors** must acknowledge that they will not further disseminate the investigation report to any person, but may use it to prepare for the hearing. Responses to the investigation report must be provided to the **Title IX Coordinator** within five (5) **Days** of receipt of the report. The **Title IX Coordinator** shall provide each **Party** with all responses.

In their responses, **Parties** must identify any claims of procedural error in the **Grievance Procedure**, including any claim of conflict of interest or bias by the **Investigator**. The **Title IX Coordinator**, in consultation with other College officials, will evaluate any claim of procedural error and remedy any error as appropriate, including but not limited to requiring the **Investigator** to interview other **Witnesses** or consider additional evidence.

- b. Appoint an **Adjudicator**, notify the **Parties** of the identity of the **Adjudicator**, and provide not less than five (5) **Days** for a written response from the **Parties** raising any concerns regarding a conflict of interest or bias on the part of the **Adjudicator**.

- c. Forward the investigation report and the **Parties'** responses to the **Adjudicator** in advance of the hearing.

## 6. Live Hearing

The College shall conduct a live hearing through which an **Adjudicator** will consider the evidence, make determinations of responsibility, and impose remedies including, if warranted, disciplinary sanctions.

The **Title IX Coordinator** shall be responsible for scheduling the live hearing (no less than ten (10) **Days** after receiving the written responses to the investigative report); notifying persons who need to be present at the hearing, including the **Parties, Advisors, the Investigator and Witnesses** identified in the investigation report; and providing a copy of the College's ***Title IX and Maine Interpersonal Violence Guide for Parties, Advisors and Others*** to all participants. **Witnesses** will be requested to provide testimony at the hearing. The **Title IX Coordinator** is required to limit attendance at the hearing, consistent with the Family Educational Rights and Privacy Act (FERPA), to **Parties, Advisors, Witnesses, the Investigator, the Adjudicator, other College Title IX Coordinators, staff to facilitate technology for the hearing, and the Office of General Counsel or its designee**. If there are others that a **Party** wishes to have present at the hearing to provide testimony, the **Party** must notify the **Title IX Coordinator** within three (3) **Days** of receiving notice of the hearing.

Some important features of hearings include the following:

- a. Under Title IX, neither **Party** may waive the right to a live hearing, but any individual, including the **Parties and Witnesses**, has the right to decline to participate in the hearing. The College has no authority to compel **Parties, Witnesses or Advisors** to be present for a hearing.
- b. The live hearing will be conducted virtually, with technology enabling participants to simultaneously see and hear each other. By mutual consent, the **Parties** may agree that only the **Advisors** and a person providing evidence to the **Adjudicator** will have the camera on. If a **Party** requests that the hearing take place with the **Parties** in the same room rather than virtually, and if all other **Parties** consent, the College may elect in its sole discretion to hold the hearing in the same room.
- c. The **Adjudicator**, not the **Investigator**, makes the final determination of responsibility and imposes remedies, including disciplinary sanctions where warranted. The **Adjudicator** will not be the **Title IX Coordinator** or the **Investigator**.
- d. The **Adjudicator** may impose reasonable time limits on opening/closing statements, cross-examination, and comments by the **Parties** and their

- Advisors** during the hearing, and shall generally preside over the hearing and enforce the rules of decorum.
- e. The **Adjudicator** may ask questions of the **Parties**, their **Advisors** and any **Witnesses**.
  - f. The **Adjudicator** shall rule on the relevance of evidence offered or of any question asked of a **Party** or **Witness** prior to the question being answered, especially during cross-examination. The **Adjudicator** may also admit evidence not produced during the investigation, provided such evidence is relevant, there is good cause for its failure to be produced during the investigation, and its admission does not constitute an unfair surprise to a **Party**.
  - g. All relevant evidence, both inculpatory and exculpatory, shall be evaluated objectively.
  - h. The **Adjudicator** may request input from the College concerning possible sanctions, either during the live hearing or during the period between the close of the hearing and the issuance of the **Adjudicator's** written determination. Information on sanctions provided by the College after the close of the hearing will be provided to the **Complainant/Reporting Party** and **Respondent/Responding Party** at the same time it is provided to the **Adjudicator**, and the **Parties** will have five (5) **Days** to provide a written response to the information on sanctions provided by the College.
  - i. The College's Office of General Counsel or its designee shall attend the hearing and may provide information or advice to the **Adjudicator** or guidance to the participants during the hearing as needed.
  - j. **Parties** must have an **Advisor** at the hearing. If a party does not have an **Advisor** at this stage of the process, the College will appoint one for the **Party** at no cost to the **Party**.
  - k. Communications between a **Party** and the **Party's Advisor** are not relevant evidence and are not admissible at the live hearing, whether during cross-examination or in questions from the **Adjudicator**.
  - l. The Title IX regulations require that **Advisors** (and not the **Parties**) may question other **Parties** and **Witnesses**, following the College's rules of decorum.
  - m. A video or audio recording or transcript shall be made of the hearing, and made available to the **Parties** for inspection and review.

## 7. Standard of Proof and Determination of Responsibility

The College uses a preponderance of the evidence standard (“more likely than not”) in making determinations of responsibility, for both **Students** and **Employees**.

The **Adjudicator** shall issue a written determination, which shall include the following:

- Identification of all the allegations potentially constituting **Sexual Harassment** or **Interpersonal Violence** as defined in the Title IX regulations and this policy;
- Identification of the specific code of conduct provisions that were violated if the **Respondent/Responding Party** is determined to be responsible.
- A description of the procedural steps taken from receipt of the **Formal Complaint** through the determination, including notifications to the **Parties**, interviews with **Parties** and **Witnesses**, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the **Respondent/Responding Party**.
- A statement as to whether remedies designed to restore or preserve equal access to the College’s education programs and activities will be provided to the **Complainant/Reporting Party**; however, the **Adjudicator** shall not identify such remedies. The **Title IX Coordinator** shall work with the **Complainant/Reporting Party** to design remedies consistent with the **Adjudicator’s** findings.
- The College’s procedure and permissible bases for the **Complainant/Reporting Party** and **Respondent/Responding Party** to appeal the determination (or dismissal).

The written determination shall be provided to the **Parties** simultaneously. For alleged violations of the Title IX Policy, the written determination shall be issued within fifteen (15) **Days** of the hearing. For alleged violations of the Interpersonal Violence Policy, the written determination shall be issued within seven (7) **Days**. In cases where the alleged violations fall under both the Title IX Policy and the Interpersonal Violence Policy, the Title IX regulations apply and the written determination shall be issued within fifteen (15) **Days**. If good cause for additional time is shown, these deadlines may be extended by the **Title IX Coordinator**. The determination concerning responsibility becomes final either on the date that the College provides the **Parties** with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal period expires. A complaint filed with the Office of Civil Rights or Maine Human Rights Commission is not an appeal for purposes of determining when a finding of responsibility becomes final.

## **8. Remedies, Supportive Measures and Sanctions**

### **a. Remedies**

“Remedies” are measures used to ensure that the **Complainant/Reporting Party** has equal access to the College’s education programs and activities following an **Adjudicator’s** determination of responsibility. Such remedies may include the measures described under Section O, **Supportive Measures**, and may include other appropriate measures, depending upon the determination and the needs of the **Complainant/Reporting Party**. The **Title IX Coordinator** is responsible for implementing remedies and providing any needed assistance to the **Complainant/Reporting Party**.

#### b. Supportive Measures

As noted in Section O, the **Title IX Coordinator** may continue and/or adjust **Supportive Measures** for the **Complainant/Reporting Party** or **Respondent/Responding Party** following the conclusion of the **Grievance Procedure**, based on the **Party’s** respective needs at that time.

#### c. Sanctions

##### 1) Students

The following are examples of the types of sanctions that may be imposed on a **Student Respondent/Responding Party** when there is a determination that they are responsible for one or more violations of this policy:

- Warning: A formal written statement that the **Student’s** behavior was unacceptable and a warning that future violations of College policies and rules will result in more severe action.
- Probation: A formal statement that any future violations of College policies and rules will result in possible suspension or expulsion. Terms of the probation will be specified and may include denial of social privileges; exclusion from activities; housing restrictions/loss; referral to counseling or other supports; and/or other measures deemed appropriate.
- Suspension: Termination of **Student** status for a definite period or for an indefinite period with the right to re-apply after a specific length of time. Suspension may include specific conditions for the **Student’s** return. A **Student** returning from suspension remains on disciplinary probation for the remainder of the **Student’s** Colby career. Other restrictions may be imposed as deemed appropriate.
- Expulsion: Permanent separation from the College.

- Withholding Diploma: The College may withhold a **Student's** diploma for a specified period of time and/or prohibit participation in commencement and activities associated with commencement if the **Student** has disciplinary charges pending, or as a sanction if the **Student** is found responsible for an alleged violation.
- Revocation of Degree: In extraordinary circumstances, the College reserves the right to revoke a degree awarded by the College for **Sexual Harassment** or **Interpersonal Violence** committed by a **Student** prior to graduation if a finding of responsibility is not concluded until after graduation or in other aggravating circumstances.
- Other Actions: Such other action as the **Adjudicator** may reasonably deem appropriate. Examples include, but are not limited to:
  - Mandated counseling or substance use counseling.
  - No-contact directive(s).
  - Apology.
  - Facilitated meeting with **Complainant/Reporting Party** and/or other affected individuals (only with agreement of **Complainant/Reporting Party** and other affected individuals).
  - Campus or community service.
  - Restitution (for damages related to a **Sexual Harassment** or **Interpersonal Violence** incident).
  - Housing sanctions (including, but not limited to, loss, revocation or restriction of privilege to live in College housing or specific types of housing, alteration of status in housing lottery).
  - Loss of existing, or loss of opportunity for leadership positions, campus employment, extracurricular activities and/or off-campus study.
  - Loss of social privileges, such as the ability to attend or participate in social, extracurricular and/or alumni activities and events.
  - No-contact directives and/or no-trespass orders on campus or at College events for a pre-determined or indefinite period of time.

## 2) Faculty and Staff

(a) **Staff.** The following are examples of the types of sanctions that may be imposed on a staff member **Respondent/Responding Party** when there is a determination that they are responsible for one or more violations of this policy.

- Written warning.
- Probation.
- Demotion.
- Suspension with or without pay.

- Termination.
- Forfeiture of pay increase.
- Loss of supervisory responsibilities.
- Performance improvement/performance management plan.
- Counseling.
- Training.
- Apology or facilitated meeting(s).
- No-contact directive and/or no-trespass orders on campus or at College events for a pre-determined or indefinite period of time.
- Loss/relocation of office.
- Loss of College housing.
- Loss of other privileges.

(b) **Faculty.** Sanctions for faculty must be processed in compliance with the faculty disciplinary process, as described in the Faculty Handbook, and will not be decided by the **Adjudicator**. However, determinations of responsibility for a Title IX or **Interpersonal Violence** violation may not be re-heard or adjudicated again as part of the faculty disciplinary process. In addition to the sanctions (2a) above, faculty may also face sanctions that include, but are not limited to the following:

- Loss of department, division or program chair.
- Loss of research funds or other funds.
- Loss of named chair.
- Restrictions on interaction with department/program.
- Loss of tenure.

## 9. Appeals

**Parties** have the opportunity to appeal a determination regarding responsibility, and from dismissals of **Formal Complaints**.

Appeals are allowed on the following grounds:

- a. Procedural errors that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c. The **Title IX Coordinator** wrongfully concluded that the **Formal Complaint** did not constitute **Sexual Harassment** or **Interpersonal Violence** under this Policy and dismissed the **Formal Complaint**;
- d. The **Title IX Coordinator, Investigator** or **Adjudicator** had a conflict of interest or bias for or against **Complainant/Reporting Parties** or

**Respondent/Responding Parties** generally, or the individual **Complainant/Reporting Party** or **Respondent/Responding Party**, that affected the outcome of the matter; or

- e. A sanction imposed was improper in light of mitigating or extenuating circumstances not known at the time that a **Party** was provided an opportunity to comment on sanctions, if any, or was not properly considered by the **Adjudicator**.

An appeal must be filed in writing within ten (10) **Days** of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Unless granted an extension for good cause by the **Title IX Coordinator** before the expiration of the appeal period, appeals submitted after this deadline are not timely and shall not be considered.

- a. Appeals must be filed by email with the **Title IX Coordinator**, who shall refer it to the appropriate appeals officer – the Dean of the College (for **Student Respondents/Responding Parties**), the Provost (for faculty **Respondents/Responding Parties**), or the Vice President for Administration and Chief Financial Officer (for staff **Respondents/Responding Parties**). In the event of a conflict of interest or bias, or unavailability, other officers of the College may serve as appeals officers.
- b. The **Title IX Coordinator** shall provide a copy of the appeal to all other **Parties**.
- c. The other **Parties** shall have seven (7) **Days** to submit a written statement addressing the appeal.
- d. The officer considering the appeal shall conduct an impartial review of the appeal, including consideration of the record of the matter, and may consult with other College officials/College counsel in making their decision.
- e. Within ten (10) **Days** of receiving the other **Parties'** written statements addressing the appeal, the appeals officer shall issue a written decision describing the result of the appeal and rationale for the result, and provide it simultaneously to the **Parties**. The officer may: 1) deny the appeal; 2) grant the appeal and send back the matter to the **Adjudicator** for further consideration; 3) grant the appeal and send back the matter for a new live hearing before a new **Adjudicator**; 4) grant the appeal by revising the sanction; or 5) grant the appeal of a dismissal of a **Formal Complaint** and order that an investigation be conducted.

## R. Records

Records in connection with **Sexual Harassment** or **Interpersonal Violence Reports, Formal Complaints** and proceedings shall be maintained for a minimum of seven years from resolution of the incident, or six years from date of last attendance or employment at the College by any **Party**, whichever is later, including but not necessarily limited to the following:

1. Each **Sexual Harassment** or **Interpersonal Violence** investigation including any determination regarding responsibility and any audio recording of hearings; any disciplinary sanctions imposed on the **Respondent/Responding Party**; and any remedies provided to the **Complainant/Reporting Party**;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom;
4. All materials used to train **Title IX Coordinators, Investigators, Adjudicators**, individuals reviewing appeals, and any person who facilitates informal resolutions; and
5. Records of any actions, including any **Supportive Measures** provided in response to a **Report** or **Formal Complaint** of **Sexual Harassment** and **Interpersonal Violence** (and if **Supportive Measures** are not provided, the basis for such decision).

The **Title IX Coordinator** shall be responsible for the required recordkeeping.

## S. Training

### Title IX Policy Requirements

The College shall ensure that training required by the Title IX regulations is provided to **Title IX Coordinators, Investigators, Adjudicators**, individuals reviewing appeals, and any individuals who facilitate informal resolutions. All training shall be not less than annual. Such training shall include, but may not be limited to the following:

1. The definitions of **Sexual Harassment** under Title IX regulations and this policy, including the definition of **Consent** and that the burden of proving **Consent** is on the College and not the **Parties**;
2. The scope of the College's education programs and activities;
3. How to conduct investigations and the **Grievance Procedure**, including hearings, appeals, informal resolution processes, and how to maintain confidentiality;

4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
5. **Adjudicators** shall receive training on any technology to be used at a live hearing, and on issues of relevance of questions and evidence, including when questions and evidence about the **Complainant/Reporting Party's** sexual predisposition or prior sexual behavior are not relevant;
6. **Investigators** shall also receive training on issues of relevance to create investigative reports that fairly summarize relevant evidence; and
7. Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of **Formal Complaints of Sexual Harassment**.

## **Interpersonal Violence Policy Requirements**

The College shall ensure that annual training required is provided to all individuals related to the Interpersonal Violence Policy as specified under the Maine law. Such training shall include, but may not be limited to the following:

**Mandatory awareness programming for incoming Students and all Employees of the College. Awareness programming shall be made available to all returning Students of the College:**

1. The definitions of **Sexual Violence, Intimate Partner Violence, and Stalking**;
2. The definition of **Affirmative Consent** and the role that drugs and alcohol play in an individual's ability to provide **Affirmative Consent**;
3. Options for reporting;
4. The College's procedures for resolving reports of **Sexual Violence, Intimate Partner Violence, and Stalking** and the range of sanctions or penalties that the institution may impose on **Students** and **Employees** who are found responsible;
5. The name, contact information and role of the Confidential Resource Advisor; information about the local sexual assault support center and domestic violence resource center, their confidential services, and how to access those services;
6. Bystander intervention and risk reduction strategies; and

7. Sensitivity to marginalized groups that recognizes the disproportionate impacts and rates of occurrence of **Sexual Violence**, **Intimate Partner Violence**, and **Stalking** on members of marginalized groups including but not limited to people of color, people with disabilities, and lesbian, gay, bisexual, and transgender people.

**Annual training for Title IX Coordinators, campus safety personnel, and individuals involved in the disciplinary process**

1. The definitions of and information on particular types of conduct that constitute **Sexual Violence**, **Intimate Partner Violence**, and **Stalking**;
2. The definition of **Affirmative Consent** and the role that drugs and alcohol play in an individual's ability to provide **Affirmative Consent**;
3. Information about providing a **Trauma-Informed Response** when working with and interviewing victims of an alleged incident of **Sexual Violence**, **Intimate Partner Violence**, or **Stalking**;
4. The effects of trauma, including the neurobiological impacts on an individual;
5. Cultural competency training regarding how **Sexual Violence**, **Intimate Partner Violence**, and **Stalking** may affect **Students** differently depending on a **Student's** cultural background, national origin, sex, ethnicity, religion, gender identity, gender expression, and sexual orientation;
6. Methods of communicating sensitively and compassionately with a **Reporting Party**, including an awareness of responding to a **Reporting Party** with a consideration of that party's cultural background and providing services to or assisting in locating services for the **Reporting Party**;
7. Information regarding how **Sexual Violence**, **Intimate Partner Violence**, and **Stalking** may affect **Students** with developmental or intellectual disabilities; and
8. Methods of communicating sensitively with a **Responding Party**, including an awareness of the emotional impact of an allegation of **Sexual Violence**, **Intimate Partner Violence**, and **Stalking**.

The **Title IX Coordinator** shall ensure that training materials shall be posted on the College's website.