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Moulton Union, 2nd Floor

(207) 725-3149

8:30 am - 5:00 pm

# Bowdoin College Title IX Policy

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This Policy governs reports of alleged Sexual Harassment as defined by and within the scope of the Title IX regulations issued by the United States Department of Education, 34 C.F.R. Part 106. In addition to the conduct addressed under this Policy, the College prohibits all forms of sexual misconduct as set forth in the Student Code of Community Standards, Faculty Handbook, and Employee Handbook.

The College's primary concern is the health, safety, and well-being of the members of our college community. If you or someone you know may be the victim of Sexual Harassment, as defined below, or any sexual misconduct, you are strongly urged to seek immediate assistance from the appropriate community resource and to report the matter to the Title IX Coordinator.

## **Emergency Resources:**

Assistance can be obtained twenty-four hours a day, seven days a week from:

- Police (Town of Brunswick): 911 or (207) 725-6620
- Sexual Assault Support Services of Midcoast Maine (SASSMM): (800) 871-7741
- Through These Doors (formerly Family Crisis Services): (866) 834-4357

- Mid Coast Hospital: 911 or (207) 729-0181
- Bowdoin Office of Safety and Security: x3500 or (207) 725-3500

### **Campus Resources:**

Students are strongly urged to contact the Title IX Coordinator, **Benje Douglas**, as soon as reasonably possible to report any Sexual Harassment or sexual misconduct or to file a Formal Complaint. Benje can be reached at **(207) 721-5189** or by e-mail at [bdouglas@bowdoin.edu](mailto:bdouglas@bowdoin.edu). Benje is available to help connect students to the resources available on campus and in the community, including assistance with law enforcement, as well as explaining the processes available through this Policy.

If you or someone you know may be the victim of Sexual Harassment or sexual misconduct by a member of the College's faculty or staff, you may report such misconduct or file a Formal Complaint with the Deputy Title IX Coordinator for Employees and Visitors. Bowdoin College's Interim Deputy Title IX Coordinator for Employees and Visitors is Assistant

Director of Human Resources for Talent Acquisition and Employee Relations **Cassie Christie**. Cassie can be reached at **(207) 725-3468** or by email at [cjchris@bowdoin.edu](mailto:cjchris@bowdoin.edu).

### **Confidential or Privileged Campus Resources:**

The College recognizes the importance of the availability of confidential reporting, and, to that end, there are several Bowdoin community members to whom reports of Sexual Harassment may be made and who will not disclose identifying details of such reports to the Title IX Coordinator. These privileged and confidential resources will not release any information shared with them except under limited circumstances that pose an imminent danger to the individual or others or as otherwise required by law. Specific legal protections apply to communications with privileged resources based on their professional role. Confidential resources are those individuals who have been selected by the College and are not required to communicate Reports to the Title IX Coordinator.

### **On-Campus Confidential Resources:**

- [Rachel Reinke, Director of Gender Violence Prevention and Health Education](#): 207-725-3048
- [Kate Stern, Director, Center for Sexuality, Women, and Gender](#): 207-725-4223

### **On-Campus Privileged Resources:**

- [Counseling Services](#): 207-725-3145
- [Health Services](#): 207-725-3770

- [Eduardo Pazos, Assistant Dean of Student Affairs for Inclusion and Diversity and Director of Multicultural Student Life](#) 207-798-4196

Further information about Title IX and sex discrimination in education is available from the Office for Civil Rights, 400 Maryland Avenue, SW, Washington, DC 20202-1100 (by Customer Service Hotline: (800) 421-3481; fax: (202) 453-6012; TDD: (877) 521-2171; email: [OCR@ed.gov](mailto:OCR@ed.gov); or on the web at <http://www.ed.gov/ocr>).

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## I. INTRODUCTION

### A. Overview of College Procedure

Sexual Harassment will not be tolerated at the College. For purposes of this Title IX Policy, “Sexual Harassment,” which is defined further below, means conduct on the

basis of sex that satisfies one or more of the following: (1) quid pro quo sexual harassment by an employee; (2) unwelcome conduct that a reasonable person would consider so severe, pervasive and objectively offensive as to deny the victim equal access to the College’s Education Program or Activity; or (3) sexual assault, dating violence, domestic violence, or stalking.

As a recipient of federal funds, the College is required to and does comply with Title IX of the Education Amendments of 1972, 20 USC 1681 et seq. (“Title IX”), which prohibits discrimination on the basis of sex in education programs and activities. Sexual Harassment, as defined by Title IX, is a form of sex discrimination prohibited by Title IX.

The College offers alternative options to resolve Formal Complaints of Sexual Harassment (except, as described below, in the case of Formal Complaints involving a Student and an Employee). The options are designed to provide prompt, fair and impartial resolution of Formal Complaints as well as an opportunity for parties to present their versions of the incident and to understand the nature of the incident and its effects on each party and on the College community. The options differ in their procedures and potential results. In all instances, the timeline for resolution of Formal Complaints moves as expeditiously as is possible.

### B. Definitions

“**Coercion**” means the improper use of pressure to compel another to engage in or continue sexual activity against their will, including duress, cajoling, manipulation, and blackmail. Coercion occurs when a Respondent keeps pressuring the Complainant to

acquiesce to sexual activity even after the Complainant has made clear that the pressure is unwelcome.

**“Complainant”** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment. Pursuant to Title IX, a Complainant must be a Student, Employee or third party who is participating or is attempting to participate in a Bowdoin Education Program or Activity at the time of filing the Formal Complaint.

**“Dating Violence”** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on 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 abuse, physical abuse, emotional violence, or the threat of such violence and does not include acts that meet the definition of “Domestic Violence.”

**“Dean for Student Affairs”** means the Senior Vice President and Dean for Student Affairs or their designee.

**“Dean of Students”** means the Dean of Students or their designee.

**“Decision Makers”** means the Hearing Officer, who determines responsibility, and the sanctioning decision makers (members of the Student Sexual Misconduct Panel (in Student Respondent cases) or the Senior Vice President and Dean for Academic Affairs, in consultation with the Vice President of Human Resources (in faculty Respondent cases) or the appropriate Senior Officer, in consultation with the Vice President of Human Resources (in staff Respondent cases)).

**“Domestic Violence”** includes felony or misdemeanor crimes of violence 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 cohabitating 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 violence laws of Maine. In Maine, this includes the following crimes: Domestic violence assault (17-A M.R.S. § 207-A), Domestic violence criminal threatening (17-A M.R.S. § 209-A), Domestic violence threatening (17-A M.R.S. § 210-B), Domestic violence stalking (17-A M.R.S. § 210-C), and Domestic violence reckless conduct (17-A M.R.S. § 211-A).

**“Education Program or Activity”** means locations, events or circumstances over which the College exercised substantial control over both the Respondent and the context in which alleged Sexual Harassment occurred and also includes any buildings owned or controlled by a student organization that is officially recognized by the College.

**“Effective Consent”** means words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective Consent cannot be gained by Force, by ignoring or acting in spite of the objections of another, or by taking advantage of the Incapacitation of another, where the Respondent knows or reasonably should have known of such Incapacitation. The use of alcohol or other drugs will never function to excuse behavior that violates this Policy. Effective Consent is also absent when the activity in question exceeds the scope of Effective Consent previously given, including where consent was given to certain sexual activity under

certain conditions (for example, with the use of a barrier method of birth control) and the activity in question violates any such conditions. In addition, certain states have designated a minimum age under which a person cannot give Effective Consent.

**“Employee”** means, for purposes of this policy, a staff or faculty member employed in the College’s Education Programs or Activities. Depending on the circumstances, a Student who is employed by the College may be considered an Employee under this policy.

**“Expert Witness”** means any individual who has expertise, training, or special knowledge that is relevant to the specific details of a Complaint of Sexual Harassment.

**“Final Outcome Letter”** means the letter issued by the Hearing Officer stating their decision and setting forth: the name of the Respondent; the allegations potentially constituting Sexual Harassment; a description of the procedural steps taken from the filing of the Formal Complaint, including notifications to the parties, interviews with the parties and witnesses and all steps and methods used to gather evidence and hearings held; findings of fact supporting the determination, conclusions regarding the application of this policy to the facts, including a statement of, and rationale for, the result as to each allegation, and a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College’s Education Programs and Activities will be provided to the Complainant; and the College’s procedure and bases for the parties to appeal.

**“Force”** means physical force, violence, threat, intimidation or coercion.

**“Formal Complaint”** means the document filed by the Complainant or signed by the Title IX Coordinator or their designee alleging Sexual Harassment against a respondent and requesting the College investigate the allegation.

**“Hearing Officer”** means the external, neutral person hired by Bowdoin to preside over and conduct the live hearing following the submission of the Investigative Report and to make a determination of responsibility.

**“Incapacitation”** means the physical and/or mental inability to make informed, rational judgments. States of Incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol [or other drug] is involved, Incapacitation is determined by how the alcohol [or other drug] consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make informed judgments.

**“Investigative Report”** means the report submitted by the Investigator. The Investigative Report includes a summary of all relevant evidence.

**“Investigator”** means the external, neutral individual hired by Bowdoin to investigate the allegations of the Formal Complaint.

**“Panel Chair”** means the Chair of the Student Sexual Misconduct Board. The Chair is the Dean of Students or their designee.

**“Quid Pro Quo Harassment”** means: an employee conditioning the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct.

**“Report of Sexual Harassment”** means communication to the Title IX Coordinator(s) or other Responsible Employee of a possible violation of this Policy.

**“Respondent”** means the individual who is reported to be the perpetrator of conduct that could constitute Sexual Harassment. Pursuant to Title IX, any individual may be a Respondent, whether they are a Student, Employee or third party, so long as the alleged activity occurred within a Bowdoin Education Program or Activity against a person in the United States.

**“Responsible Employee”** means any Bowdoin employee: who has the authority to take action to redress Sexual Harassment; who has been given the duty of reporting

incidents of Sexual Harassment to the Title IX Coordinator or other appropriate College designee; or who a Student or Employee could reasonably believe has this authority or duty. This includes but is not limited to faculty, academic support staff, security personnel, coaches, residential life student and professional staff, deans and other College administrators. This excludes confidential and privileged resources listed above.

**“Sexual Assault”** means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, as set forth below.

- **Sex offenses, Forcible:** Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
  - **Forcible rape** (except Statutory rape): The carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of their temporary or mental or physical incapacity.
  - **Forcible sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
  - **Sexual assault with an object:** To use an object or instrument to unlawfully penetrate, however, slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
  - **Forcible fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
- **Sex offenses, Nonforcible:** Unlawful, nonforcible sexual intercourse, including incest and statutory rape.
  - **Incest:** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - **Statutory Rape:** Non-Forcible sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the

act is not an attack.

**“Sexual Harassment”** means unwelcome conduct on the basis of sex that satisfies one or more of the following: (1) Quid Pro Quo Harassment by an employee; (2) unwelcome conduct that a reasonable person would consider so severe, pervasive and objectively offensive as to deny the victim equal access to the College’s Education Program or Activity; or (3) Sexual Assault, Dating Violence, Domestic Violence or Stalking.

**“Stalking”** means 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 substantial emotional distress. Examples of stalking may include: unwanted, intrusive, and frightening or otherwise emotionally distressing communications by phone, mail, and/or email; repeatedly leaving or sending unwanted items such as gifts; following or waiting for a person at places such as home, school, or work; making direct or indirect threats of harm to a person, or to the person’s children, relatives, friends, or pets; damaging or threatening to damage property; harassment through the Internet or social media; and posting information or spreading rumors about a person.

**“Student Sexual Misconduct Panel”** means the panel convened by the Panel Chair to consider the appropriate sanction(s) in cases involving a Respondent who is a Student. The panel is made up of members of the Conduct Review Board and will typically include one student, one faculty member, and the Dean of Students, who will serve as the presiding chair. If the Dean of Students is unavailable, the Dean for Student Affairs shall select the Panel members and designate a Board member to serve as chair.

**“Student”** includes, for purposes of this policy, all persons who are enrolled students, including those engaged in study away programs, or whose degrees have been deferred, and any individual on a leave from the College (including medical, personal, disciplinary, or academic leaves). Individuals who have been permanently separated from the College are not enrolled students.”

**“Supportive Measures”** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent following a Report or before or after the filing of a Formal Complaint.

**“Title IX Coordinator”** means the trained administrator designated to oversee the College’s compliance with Title IX and assist the parties with the process. A Deputy Title



IX Coordinator is a trained administrator or staff person designated to assist with Title IX compliance and the implementation of this Policy.

**“Witness”** means any individual who can attest firsthand to information related to a Formal Complaint of Sexual Harassment.

### C. Title IX Jurisdiction

This Policy applies to allegations of Sexual Harassment by a Complainant who is a Student, Employee or third party participating or attempting to participate in a Bowdoin Education Program or Activity at the time of filing a Formal Complaint against any individual, where the conduct is alleged to have occurred within a Bowdoin Education Program or Activity against a person within the United States.

Cases of sexual misconduct that may not meet the regulatory definitions of Title IX may nevertheless violate College policy, including, but not limited to, the Social Code and the Employee Freedom from Discrimination, Harassment, Sexual Misconduct and Gender Based Violence Policy.

Such cases will be evaluated and, as appropriate, handled as a Social Code violation or a violation of the Employee Freedom from Discrimination, Harassment, Sexual Misconduct and Gender Based Violence Policy. Matters involving Bowdoin students or employees engaged in alleged misconduct that otherwise meets the definition of “Sexual Harassment” under Bowdoin’s Title IX Policy, but that is excepted from Title IX jurisdiction because of where the conduct occurred, shall be addressed using the procedures set forth in this Title IX Policy.

### D. Filing a Formal Complaint

A Complainant may file a Formal Complaint with the Title IX Coordinator in writing in person, by mail or electronically. The Formal Complaint must bear the Complainant’s physical or digital signature (or otherwise indicate that the Complainant is the filer) and must include information, which need not be extensive, about the alleged violation(s) and a request that the College investigate.

### E. Procedural Options

The College has established two procedures to address cases of alleged Sexual Harassment based on the filing of a Formal Complaint: Formal and Alternative Resolution. Details of these procedures and the associated parameters regarding their

RESOLUTION. DETAILS OF THESE PROCEDURES AND THE ASSOCIATED PARAMETERS REGARDING THEIR use are outlined below.

## **F. Supporters and Advisors to the Parties**

Both the Complainant and the Respondent may each have a supporter present for emotional and personal support and assistance during the Title IX process. In addition to the supporter, the parties are also entitled to have an advisor of their choice, who may be an attorney, present during any part of the process outlined in this Policy. Neither the advisor nor the supporter may participate in the process or make statements except that the advisor may participate in the hearing, as described below.

## **G. Timing of Complaints and Availability of Procedures**

If a Formal Complaint falls within the scope of this Policy, there is no time limit associated with invoking this Policy. Nevertheless, Students and Employees are encouraged to report alleged Sexual Harassment immediately in order to maximize the College's ability to obtain evidence and conduct a thorough, impartial, and reliable investigation. Failure to promptly report alleged Sexual Harassment may result in the loss of relevant evidence or the inability to obtain Witness testimony.

## **H. Retaliation**

Neither the College nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by 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 under this Policy. To do so constitutes a violation of this policy and may result in disciplinary action. Retaliation should be reported promptly to the Title IX Coordinator.

## **I. False Reports and Statements**

College students who provide information as part of an investigation, whether as parties to the proceedings or as Witnesses, are expected to be truthful in accordance with the College's Academic Honor Code and Social Code. Making false reports or materially false statements is prohibited and may result in the initiation of a case with the Conduct Review Board or administrative resolution by a Dean.

Employees who provide information as part of an investigation, whether as parties to the proceedings or as Witnesses, are also expected to be truthful and may face

THE PROCEEDINGS OF AS WITNESSES, ARE ALSO EXPECTED TO BE TRUTHFUL AND MAY FACE disciplinary action, pursuant to Bowdoin College Human Resources Policy if found to have made false reports or materially false statements.

## **J. Protection for Possible Incidental Conduct Violations Connected to Report of Sexual Harassment**

The College encourages reporting Sexual Harassment in all cases. Students who report Sexual Harassment or provide testimony as to an incident of Sexual Harassment will generally not be held responsible for actions connected to the reported incident, that might constitute a violation of the Social Code, as long as their actions did not put another individual or the community at risk.

## **K. Criminal Proceedings**

Because Sexual Harassment may constitute both a violation of this Policy and criminal activity, Bowdoin encourages Students and Employees to report alleged Sexual Harassment promptly to local law enforcement agencies. The filing of a Formal Complaint of Sexual Harassment under this Policy and the initiation of a criminal proceeding may be pursued simultaneously. The filing of a Formal Complaint under this Policy is independent of any criminal investigation or proceeding (except that the College's investigation may be delayed temporarily if law enforcement requests a delay to gather evidence).

## **L. Timeframes under this Policy**

The timeframes set forth in this Policy may be temporarily delayed or extended by the College for good cause with written notice and explanation to the Complainant and Respondent of the delay. Good cause may include various considerations, such as the absence of a party, a party's advisor or a witness, concurrent law enforcement activity or the need for accommodations for a participant in the process.

# **II. THE PROCESS: INITIAL STEPS**

## **A. Intake Meeting with Complainant**

Upon receipt of notice of any Report of Sexual Harassment, the Title IX Coordinator will schedule an individual Intake Meeting with the Complainant, if identified, in order to explain the procedures available under this Policy and to discuss potential Supportive Measures. The Title IX Coordinator will seek to determine how the

Complainant wishes to proceed, i.e., whether the Complainant wishes to pursue Formal Resolution or Alternative Resolution, or does not wish to pursue resolution of any kind. If the Complainant wishes to proceed with either Formal or Alternative Resolution, the Complainant will prepare a Formal Complaint and file it with the Title IX Coordinator.

## **B. Notice to the Parties**

The Title IX Coordinator will provide the parties written notice of the Formal Complaint and the allegations of Sexual Harassment. The notice will include:

- Information regarding procedures available under this Policy, including the availability of Alternative Resolution.
- 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 days).
- A statement that, as required by Title IX, the Respondent is presumed not responsible for the alleged conduct unless and until determined to be responsible at the conclusion of the process;
- Notice that the parties may have an advisor of their choice, who may be an attorney; and that the parties may inspect and review evidence;
- Notice of provisions in an applicable code of conduct or policy that prohibits knowingly making false statements or submitting false information during the process;
- Notice that the College, not either party, has the burden of gathering evidence and the burden of proof; and
- The name of the investigator, with sufficient time (no less than five calendar days) prior to any interview to raise concerns of conflict of interest or bias.

If additional allegations become known at a later time, and will be investigated, the Title IX Coordinator will supplement the original notice to the parties.

## **C. Intake Meeting with Respondent**

After a Formal Complaint is filed, the Title IX Coordinator will schedule an individual Intake Meeting with the Respondent in order to explain the processes under this Policy and to discuss potential Supportive Measures.

If the Complainant wishes to proceed with Alternative Resolution, and such a resolution process is otherwise permitted under this Policy, as set forth below in Section VI, the Title IX Coordinator will discuss with the Respondent whether they agree

to resolve the matter by Alternative Resolution.

#### **D. Complainant Does Not Wish to Pursue Resolution or Requests Confidentiality**

If the Complainant does not wish to pursue Formal or Alternative Resolution and/or requests that the Report of Sexual Harassment remain confidential, that request shall be confirmed, in writing, with the Title IX Coordinator. The College will evaluate the Complainant's request(s) for confidentiality or no action in the context of the College's commitment to provide a safe and non-discriminatory environment for all students. The Title IX Coordinator will inform the Complainant if the College must move forward with an investigation because the safety of a student or students or the College community is in question, and therefore cannot ensure confidentiality. In such instances, the Title IX Coordinator will sign a Formal Complaint to initiate an investigation pursuant to this Policy, as described below in Section II(E)

#### **E. Formal Complaints Signed by the 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 been found responsible for previous Sexual Harassment 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 alleged victim, if known, will receive notice, and will receive further notices of activities at various points in the process, but is not a party to the case.

#### **F. Consolidation of Formal Complaints**

If the Title IX Coordinator determines the circumstances warrant it, they may consolidate Formal Complaints. Such circumstances might include, but are not limited to, situations where a Complainant has filed a Formal Complaint of sexual harassment against more than one Respondent in regard to the same incident; there are multiple complaints against a Respondent; or when parties each make Complaints against the other arising out of the same facts or circumstances.

#### **G. Supportive Measures**

Following any Report of alleged Sexual Harassment, regardless of whether a Formal Complaint is filed, the College will offer, as appropriate and reasonably available, non-disciplinary, non-punitive Supportive Measures designed to restore or preserve access to the College's Education Program or Activity, including measures designed to protect

TO THE COLLEGE'S EDUCATION PROGRAM OF ACTIVITY, INCLUDING MEASURES DESIGNED TO PROTECT the safety of all parties and the Bowdoin community, without unreasonably burdening either party. Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus and other similar measures, and are provided without fee or charge to either party. Supportive Measures may be modified to reflect any appropriate changes at any point during the process. Violations of the College's directives may constitute policy violations and result in separate disciplinary action.

## H. **Emergency Leave**

The College, in consultation with the Title IX Coordinator, may place a Respondent on emergency leave after a Formal Complaint has been filed 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. Any such determination will be made in compliance with any applicable disability laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

The Respondent will be provided notice of the emergency leave and will be provided an opportunity to challenge the decision immediately following the removal. The Respondent has the burden to demonstrate why the emergency leave was unreasonable.

## I. **Administrative Leave**

The College may place a non-student employee Respondent on administrative leave during the pendency of a process under this Policy pursuant to the terms of the Faculty Handbook and Employee Handbook, as applicable.

## J. **Withholding of a Degree**

The College may withhold a Student's degree for a specified period of time and/or prohibit participation in commencement and activities associated with commencement if the Student has a Title IX matter pending against them.

## III. **DISMISSAL OF FORMAL COMPLAINT**

## A. **Mandatory Dismissal**

If the conduct alleged in the Formal Complaint would not constitute Sexual Harassment, as defined under Title IX and Section I(A), above, did not occur in Bowdoin's Education Program or Activity, or did not occur against a person in the United States, the Title IX Coordinator will dismiss the Formal Complaint with regard to that conduct.

## B. **Discretionary Dismissal**

The Title IX Coordinator may, in their discretion, dismiss the Formal Complaint, or any allegation therein, if (1) at any time during the investigation or hearing the Complainant notifies them in writing that they would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer a Student or Employee of the College; or (3) specific circumstances prevent the College from gathering evidence sufficient to reach a determination of responsibility with respect to the Formal Complaint, or allegations therein.

## C. **Separate Disciplinary Proceedings**

Although conduct may fall outside the scope of Title IX and this policy, such conduct may still constitute a violation of faculty, employee or student policies, and the College reserves the right to pursue separate disciplinary processes pursuant to such policies.

## D. **Notice of Dismissal**

The Title IX Coordinator will provide simultaneous written notice to the parties of any dismissal and will describe the grounds for the decision. If, as a result of the dismissal, the matter will transition to a separate disciplinary process under another College policy, the notice will provide that information. The notice will also inform the parties of their rights to appeal the dismissal.

## E. **Appeal of Dismissal**

Both parties will have the right to a single appeal of the dismissal of a Formal Complaint or any allegations contained therein pursuant to the appeal procedure set forth below in Section V.

# IV. **FORMAL RESOLUTION**

## A. General Obligations to the Parties

The College will meet the following basic obligations throughout the process:

1. Treat Complainants and Respondents equitably;
2. Objectively evaluate all relevant evidence;
3. Ensure that the Title IX Coordinator, Investigators and Decision Makers are appropriately trained, are not biased and do not have conflicts of interest;
4. Follow reasonably prompt timelines for conclusion of the process and provide reasons for delay;
5. Not presume a Respondent is responsible until and unless such a determination is made at the conclusion of the process;
6. Provide all required notices of meetings and hearings;
  
7. Provide opportunities for Parties to review and respond to relevant evidence, both favorable and unfavorable;
8. Ensure that credibility determinations are not be based on a person's status as a Complainant, Respondent, or Witness
9. Provide Parties with the opportunity to be accompanied to any meetings or hearings by an Advisor of their choice;
10. Provide Parties with the opportunity to present Witnesses, as well as other evidence;
11. Not restrict the parties from speaking about the case for their own emotional support and to prepare their case;
12. Assume the burden of gathering evidence and of proof (rather than such burdens resting with the parties); and
13. Comply with all applicable confidentiality and privacy laws and regulations

## B. Investigation

The Investigator will initiate the investigation. During the Investigation, the Investigator will:

1. Interview the parties after they have received appropriate notice with sufficient time to prepare;
2. Allow the parties to have their Advisor at all meetings;
3. Allow parties to identify Witnesses, including Expert Witnesses and



- submit inculpatory and exculpatory evidence;
4. Interview Witnesses and conduct such other fact-gathering activities (site visits, review of documents, etc.);
  5. Consider evidence that is relevant and directly related to the allegations in the Formal Complaint; and
  6. At the Investigator's discretion, comment on the credibility of any party, witness or evidence in the Investigative Report.

No medical records of any party will be accessed or reviewed without the voluntary, written consent of that party. No information that is protected under a legally recognized privilege will be required, allowed or relied upon unless the privilege is waived by the person holding the privilege.

Prior to completing the Investigative Report, the College will send to each party and their advisor, if any, in electronic format, any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence the Investigator does not consider relevant and including inculpatory and exculpatory evidence obtained for any source. The parties will have ten (10) calendar days from the date the evidence is made available to submit a written response to the Investigator, which the Investigator will consider prior to completing the Investigative Report.

At least ten (10) calendar days prior to the hearing described in Section IV.C below, the Investigator will issue the Investigative Report to the parties and their advisors, if any, and the Title IX Coordinator. Typically, the Investigative Report will be issued within forty-five (45) days after the Investigator initiates the investigation. The Investigative Report will include with it all evidence the Investigator considers to be relevant to the Formal Complaint, and which will be provided to the Hearing Officer for purposes of the hearing. At least five (5) calendar days prior to the hearing, the parties may provide a written response to the Investigative Report to the Title IX Coordinator for inclusion in the information to be considered at the hearing.

## C. Hearing

1. Following the issuance of the Investigative Report, and upon notice to all parties and their advisors a live hearing will be held. The notice of the hearing will identify the Hearing Officer, who will preside over the hearing, and the other Decision Makers, who, if the Hearing Officer determines the Respondent is responsible, will determine any sanctions and remedies. Typically, the sanctioning Decision Makers will not attend the hearing and will review the record and take up the matter only if the Hearing Officer determines the Respondent is responsible. The live hearing is

typically held within fifteen (15) calendar days from the issuance of the Investigative Report.

2. At the request of a party or at the College's discretion, this hearing may be held virtually, with the parties in separate rooms, using a platform that allows participants to simultaneously see and hear each other. In all instances the live hearing will be audio-recorded; the recording will be available to the parties for inspection and review.
3. The Hearing Officer will preside over the hearing. The parties' advisors, but not the parties themselves, will be permitted to ask the opposing party and any other witnesses in the matter all relevant questions, including those challenging credibility. Advisors will not be permitted to make opening or closing statements, but parties may, if they wish. Such statements will be directed to the Hearing Officer and not the opposing party. The Hearing Officer will establish rules of decorum that advisors and parties must follow, and which will be communicated with the notice of the hearing. If a party does not have an advisor at the hearing, the College will provide an advisor, who need not be an attorney, to that party at no cost, for purposes of conducting cross-examination.
4. The Hearing Officer will make determinations in real time regarding the relevance of questions posed by advisors and will explain any decisions to exclude evidence. The formal rules of evidence will not apply. Advisors may object to questions posed by the other party's advisor on the grounds of relevance only.
5. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant unless offered to prove someone other than the Respondent committed the alleged conduct or concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove consent.
6. All evidence gathered in the investigation that is directly related to the allegations raised in the Formal Complaint, and which the Investigator provided to the parties prior to the hearing, will be available at the hearing for purposes of reference and cross-examination.
7. Following objective consideration of all the relevant evidence, the Hearing Officer will determine whether, based on a preponderance of the evidence, the Respondent is responsible for the alleged Sexual Harassment. If the Hearing

Officer determines the Respondent is responsible, the other Decision Makers will then determine an appropriate sanction and remedies. The Final Outcome Letter is then issued simultaneously to both parties, typically within seven (7) calendar days from the date of the hearing.

#### D. Parties Agree to Pursue Alternative Resolution

At any time prior to the beginning of the Hearing, if agreed to in writing by both parties, the parties may transition the matter to an Alternative Resolution except that Alternative Resolution is not permitted in cases involving allegations that an Employee sexually harassed a Student.

#### E. Potential Sanctions and Remedies

##### **Potential Student Disciplinary Sanctions and Remedies**

The Panel may impose any sanction or remedy that it finds to be appropriate and well suited to the circumstances presented. Once the Hearing Officer has determined responsibility, in determining an appropriate sanction or remedy, the Panel may consider any record of past disciplinary violation(s), as well as the nature and severity of such past violation(s). The Panel will also consider, as part of its deliberations, what sanctions or remedies will: (a) bring an end to the violation in question; (b) reasonably prevent a recurrence of a similar violation; and (c) remedy the effects of the violation on the Complainant and the Bowdoin community. All decisions by the Panel will be made by majority vote. Although this list is not meant to be exhaustive, the following are some potential sanctions and the characteristics attributed to them. See Policy for Reporting Disciplinary Matters for information on the extent to which the Office of the Dean of Students reports disciplinary action.

**Reprimand:** Depending on the circumstances, Students who violate this Policy may receive an official written Reprimand from the College. This Reprimand will be called to the attention of a board or administrator in the event of any future policy violations. The Decision Maker will specify whether the Reprimand is with or without parental notification and in the case of the former may notify students' parents or guardians and coach (when applicable) of the violation resulting in a Reprimand.

**Probation:** Probation is a change of status and will be reflected in a student's file. Students on Probation are not permitted to study away. Additionally, students may lose certain College privileges while on Probation, including but not limited to: the ability to live on-campus; permission to live off-campus, including temporary or summer

housing; on-campus parking privileges; the ability to serve in certain student leadership positions (e.g., Bowdoin Student Government, organization leadership, or campus departments leadership, etc.). The Office of the Dean of Students will notify a student's parents or guardians of the status change and, when appropriate, academic advisor(s), coach, and/or student activities advisor will also be notified. Students who commit further violations of College policy while on Probation will most likely be referred to the Conduct Review Board.

**Suspension:** Separation from the College for a specified period of time with recommended minimum conditions to be eligible for consideration for readmission. The Office of the Dean of Students will notify students' parents or guardians, academic advisor(s), and coach (when applicable) of any violation resulting in Suspension. When students are suspended, they are required to be away from campus and lose privileges; after the designated period, students may apply for re-enrollment to Bowdoin, which is not guaranteed. Suspended students, unless otherwise authorized by the Dean of

Students, must leave the campus and may not occupy or visit College facilities or properties. In addition, suspended students are forbidden to participate in Bowdoin-sponsored activities or represent the College in any manner or forum during their suspension. Suspended students may not transfer academic credit to Bowdoin for coursework taken during Suspension, unless permission is granted by the Dean of Students.

**Permanent Dismissal:** For the most serious of violations, or for major misconduct following a prior suspension, a student may be separated from the College with no opportunity for future readmission. The Office of the Dean of Students will notify students' parents or guardians, academic advisor(s), and coach (when applicable) of any violation resulting in Permanent Dismissal.

**Withholding the Degree:** As set forth above, the College may withhold a Student's degree 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 committed by a Student prior to graduation if a finding of responsibility is not concluded until after graduation or in other aggravating circumstances.

### **Potential Employment Sanctions**

For Employee Respondents, sanctions may include, but are not limited to trainings, counseling, verbal or written warnings, probation, demotion, suspension with or without pay, job in jeopardy action, forfeiture of pay increase, loss of privileges, loss of supervisory responsibilities, or immediate termination of employment.

**Other Sanctions and Remedies:** In all cases, the Decision Makers may impose other appropriate sanctions in addition to, or instead of, the above-listed sanctions. Additionally, the College will provide remedies to ensure that the Complainant has equal access to the College's Education Program and Activities. Remedies may also include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus and other similar measures. Unlike Supportive Measures, these remedies may be disciplinary and punitive in nature.

**Effective Date of Sanction:** The effective date of a sanction will be set forth in the Final Outcome Letter, but sanctions are not in effect during the pendency of any appeal.

## V. APPEALS

Both parties have the right to a single appeal of the Title IX Coordinator's decision to dismiss a Formal Complaint and the Decision Makers' decision. An appeal must be submitted in writing within five (5) calendar days of receiving the determination, stating the grounds for the appeal and including any relevant supporting documentation.

Appeals must be submitted as follows:

- To the Dean of Students for cases involving Student Respondents and dismissal of a Formal Complaint
- To the Student Appeals Committee, via its chair, the Dean for Student Affairs, for cases involving Student Respondents and appeals from the Decision Makers' decision
- To the President of the College for cases involving faculty Respondents
- To the President of the College for cases involving staff Respondents

The Dean for Student Affairs or the President of the College will provide a copy of the appeal to the non-appealing party who will have five (5) calendar days to submit a statement in response.

In order for an appeal to be granted, the appeal must demonstrate at least one of the

following:

1. procedural irregularity that affected the outcome of the matter;
2. new evidence that was not reasonably available at the time of the decision that could affect the outcome of the matter; or
3. the Title IX Coordinator, Investigator or a Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individually Complainant or Respondent that affected the outcome of the matter.

Review on appeal will be impartial and will include consideration of the written record of the matter and, where appropriate, consultation with other College officials. The Dean for Student Affairs, the Student Appeals Committee and the President of the College will issue a written decision, typically within fifteen (15) calendar days from receipt of the appeal, which shall be provided to both parties simultaneously. The written decision will describe the result of the appeal and the rationale. The written decision may: 1) deny the appeal and affirm the original decision; 2) grant the appeal and order a previously dismissed Formal Complaint to be reinstated; 3) grant the appeal and remand to the Decision Makers for further consideration; 4) grant the appeal and remand for a new live hearing before new Decision Maker(s); or 5) grant the appeal and revise the sanction.

## **VI. ALTERNATIVE RESOLUTION**

If agreed to in writing by both parties, and if the Title IX Coordinator believes the circumstances are appropriate, or where a Respondent is prepared to accept responsibility for all of the allegations of the Formal Complaint and the parties agree in writing to pursue alternative resolution, a Formal Complaint may be resolved by Alternative Resolution, as described in this section, except that a case alleging Sexual Harassment by an Employee against a Student may not be resolved by Alternative Resolution. Alternative Resolution is a facilitated process that does not involve an investigation and allows the parties to attempt to reach a resolution of the matter through an intermediary.

If both parties agree in writing to resolve the matter by Alternative Resolution, the Title IX Coordinator will simultaneously send both parties a notice of Alternative Resolution setting forth the allegations, the requirements and potential outcomes of the Alternative Resolution, the circumstances under which the parties are precluded from resuming a Formal Complaint arising out of the same allegations, the rights of each party to withdraw from the Alternative Resolution prior to its conclusion and resume a Formal Resolution and a description of the records that will be maintained related to the Alternative Resolution.

### **A. Purpose of Alternative Resolution**

Alternative Resolution provides an opportunity for the parties to resolve a Formal

Alternative resolution provides an opportunity for the parties to resolve a Formal Complaint without a formal hearing.

## **B. Presiding Officer**

The Title IX Coordinator will identify a presiding officer to conduct the Alternative Resolution. This officer will typically be the Dean of Students or their designee as the Chair of the Sexual Misconduct Panel.

## **C. Process of the Alternative Resolution**

The Alternative Resolution will typically be completed within thirty (30) days from the date of the Alternative Resolution notice provided to the parties by the Title IX Coordinator. Upon timely request by a party, the presiding officer, in consultation with the Title IX Coordinator, may, at their discretion, accommodate concerns regarding direct contact between the parties by, for example, providing separate facilities and/or conducting any meetings using a remote platform.

The parties will never appear simultaneously or in person together. The Title IX Coordinator will request proposed measures to resolve the matter from both parties and share them with the other for consideration. Measures must relate to Bowdoin College's Education Program or Activity, including but not limited to accommodations to living, academic, or employment situation and; limitations of contact between the parties. The presiding officer will review any measures the parties agree to for suitability.

Where the parties have agreed to resolve a Formal Complaint by Alternative Resolution and a Respondent is prepared to accept responsibility for all of the allegations of the Formal Complaint, the Presiding Officer, in consultation with the relevant sanctioning Decision Makers who will be disclosed to the parties, will determine the appropriate sanction and/or remedies (examples of which are set forth in Section IV(E) of this Policy) and communicate that to the parties.

## **D. Outcomes of Alternative Resolution**

At the conclusion of the Alternative Resolution, the presiding officer will share a list of measures agreed to by both parties to resolve the matter. If the parties agree on an outcome, it must be signed in writing by both parties and a representative of the College, usually the Title IX Coordinator. Any such signed agreement is final and binding on the parties according to its terms.

Where a Respondent is prepared to accept responsibility for all of the allegations of the Formal Complaint and the Presiding Officer has communicated the applicable sanction to the parties, the parties may agree to resolve the matter with a finding of responsibility and imposition of the sanction. In that case, the parties and a representative of the College will sign a document memorializing that outcome and ending the matter.

If the Alternative Resolution does not resolve the Formal Complaint, nothing from the Alternative Resolution process may be used as evidence in a Formal Resolution.

#### **E. Confidentiality of Alternative Resolution**

In order to promote honest and direct communication, information disclosed during the Alternative Resolution must remain confidential while the Alternative Resolution is pending, except where disclosure may be required by law or authorized in connection with duties on behalf of the College. At the conclusion of Alternative Resolution, any documents prepared in anticipation of or disclosed during the Alternative Resolution may not be disclosed outside the proceeding, except as may be required or authorized by law.

#### **F. Election to End Alternative Resolution**

At any time prior to the conclusion of the Alternative Resolution, either party may elect to end such proceedings and initiate Formal Resolution instead. Formal Resolution may not be initiated, however, after the conclusion of an Alternative Resolution.

### **VII. RECORDS AND TRAINING MATERIALS**

The College will maintain records in connection with a Report of Sexual Harassment, a Formal Complaint and proceedings under this policy for a minimum of seven years from resolution of the matter (or longer pursuant to the terms of the [Records Retention Schedule](#)). Documents retained will include, but not necessarily be limited to, records of:

1. an investigation of Sexual Harassment, including a determination regarding responsibility, hearing audio recording; and any disciplinary sanctions imposed, or remedies provided;
2. any appeal and the result thereof;
3. any informal resolution and the result thereof;
4. all materials used to train Title IX Coordinators, Investigators, Decision Makers, individuals reviewing appeals, and any person who facilitates Alternative Resolutions (which materials are available by contacting the Title IX Coordinator and will be posted on the College's website); and



on the college's website, and

- actions, including any Supportive Measures, provided in response to a Report of Sexual Harassment or a Formal Complaint, including the basis for any decisions not to provide Supportive Measures.

## VIII. POLICY INTERPRETATION AND AMENDMENTS

Any question of interpretation or application of this Policy shall be referred to the President for final determination. This Policy may be amended, in writing, by the President or the President's designee at any time.

**Date of last revision: September 2021**

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**Resources**

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**Orientation**

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**Conduct Review Board**

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### Code of Community Standards

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- **Section I: Community Standards**
  - The Academic Honor Code and Social Code
  - Student Disciplinary Process
  - Sanctions
  - Appeals
  - [Bowdoin College Title IX Policy](#)
  - Non-Discrimination Policy and Student Grievance Process
  - Conflict Resolution
  - Reporting Student Disciplinary Record and Matters
  - Video and Audio Recordings
  - Conduct Review Board
- Section II: Campus and Community Life and Activities
- Section III: Administrative and Informational Policies

- Section IV: Academic Policies
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255 Maine Street  
Brunswick, Maine 04011  
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