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Staff Directory

Employee Freedom from Discrimination, Harassment, Sexual Misconduct & Gender Based Violence Policy

Updated: August 2020

INTRODUCTION

Bowdoin College strives to provide a place of study and work that is free from unlawful harassment, discrimination, sexual misconduct and gender based violence of any kind. In compliance with the Maine Human Rights Act (MHRA), Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Title VII of the Civil Rights Act of 1964 and other federal and state laws, Bowdoin College prohibits any member of the faculty, staff, administration, student body, or visitors, whether visiting campus, patrons, independent contractors, or vendors from harassing or discriminating against any other member of the Bowdoin College community because of a person's race, color,

OTHER MEMBER OF THE BOWDOIN COLLEGE COMMUNITY BECAUSE OF A PERSON'S RACE, COLOR, ethnicity, ancestry and national origin, religion, sex, sexual orientation, gender identity and/or expression, age, marital status, place of birth, genetic predisposition, veteran status or against qualified individuals with physical or mental disabilities on the basis of disability, or any other legally protected statuses in any phase of its employment process, in any phase of its admission or financial aid programs, or other aspects of its educational programs or activities. Discrimination or harassment on the basis of any protected characteristic is illegal. All employees are expected to respect the rights of their coworkers and conduct themselves in a way that supports the inclusion of students and employees of all different backgrounds. Employees who engage in unlawful harassment, sexual misconduct or gender based violence or discrimination will be subject to disciplinary action, up to and including immediate termination of employment.

SCOPE OF POLICY

This policy applies to complaints of harassment, discrimination, sexual misconduct or gender based violence, made against any College employee, that fall outside the scope of the [Student Non-Discrimination Policy and Student Grievance Process](#) and the [Bowdoin College Title IX Policy](#). As set forth in the Bowdoin College Title IX Policy, cases of sexual misconduct that may not meet the regulatory definitions set forth in Title IX, may nevertheless violate the Employee Freedom from Discrimination, Harassment, Sexual Misconduct and Gender Based Violence Policy. Such cases will be evaluated and where appropriate handled as violations of this Policy. Matters involving Bowdoin employees engaged in misconduct that otherwise meets the definition of “sexual misconduct” under Bowdoin’s Title IX Policy, but that is excluded from Title IX jurisdiction because of where the conduct occurred, shall be addressed using procedures identical to those set forth in the Title IX Policy. This policy does not apply to complaints against student employees. A glossary of terms is included at the end of this policy.

RESOURCES

Members of the Bowdoin community may wish to use the following services for consultation and/or support:

On-Campus Resources

- * Bowdoin College Security (Ext. 3314 or for emergencies Ext. 3500)
- * Counseling Center (Ext. 3145) [For Students]
- * Peter Buck Health Center (Ext. 3236) [For Students]
- * Employee Assistance Program 1-800-647-9151 or AnthemEAP.com. Call for free, confidential assistance 24 hours a day, 7 days a week [For Employees]
- * Human Resources (Ext. 3837)
- * Office of the Dean for Academic Affairs (Ext. 3578)

- * Office of the Dean of Student Affairs (Ext. 3228)
- * Safe Space (contact Residential Life Staff or Dean's Office for names of student members)
- * Women's Resource Center (Ext. 3620) [For Students]
- * Workplace Advisors (hyper link to Workplace Advisor page) listed below [For Employees]

Community Resources

- * Sexual Assault Support Services of Midcoast ME (207)-725-2181, 1-800-822-5999, 124 Maine Street, Brunswick, ME
- * Brunswick Police Department (911 or 725-5521)
- * Midcoast Medical Center (725-0181)
- * Sexual Assault Support Services of Midcoast Maine (1-800-871-7741)

ON-CAMPUS CONTACTS

The Vice President for Human Resources is the individual designated by the College to coordinate its efforts to comply with this policy and anti-discrimination laws applicable in employment. Questions about this policy should be directed to:

Tamara Spoerri
Vice President for Human Resources
216 Maine Street, 3rd floor
Brunswick, ME 04011
(207)725-3838
tspoerri@bowdoin.edu

If an employee experiences any unlawful harassment, sexual misconduct or gender based violence or discrimination, they should promptly report the concern to any of the following people:

1. The Vice President for Human Resources or the Associate Director for Talent Strategy
2. The accused staff or faculty member's supervisor or department head;
3. The complaining party's supervisor or department head;
4. The Dean or Associate Dean for Academic Affairs; or
5. The Associate Dean of Student Affairs & Director of Residential and Student Life

Complaints by employees can also be made to one of the Workplace Advisors listed below who are trained by the College to provide guidance and support to employees with complaints of harassment or discrimination, sexual misconduct or gender based violence.

Workplace Advisors:

Mark Battle, x3410

Dyan Curran, x3051

Deborah Infante, x3810

Abigail Killeen, x4172

Lesley Levy, x4187

Delmar Small, x3747

Donna Trout, x3339

A student complaint of harassment, sexual misconduct or gender based violence against an employee or faculty member may be made to the College's Associate Vice President for Inclusion and Diversity and Director of Title IX, Gender Violence Prevention and Education, A student employee should also take immediate action to report any incident occurring in their employment to their workplace supervisor or the Vice President for Human Resources, Tamara Spoerri (x3837).

COMPLAINT PROCESS

For matters that fall within the scope of this policy, the College will conduct an investigation pursuant to the following process. A complaint may be initiated by any member of the College community who feels they have experienced, or who has knowledge of, discrimination, harassment, sexual misconduct or gender based violence by a College employee. When the complainant is not the person who has experienced the discrimination, harassment, sexual misconduct, and/or gender based violence, the College's ability to investigate and resolve the situation may depend on the alleged complainant's willingness to participate in the investigation.

Complaints are requested, but not required, to be in writing and should include the names of the complainant and the respondent, a description of the objectionable conduct, the location, dates and times of the objectionable conduct, and the identification of witnesses or other persons with knowledge of the allegations.

ADMINISTRATIVE COMPLAINT RESOLUTION PROCEDURE

The Vice President for Human Resources shall work with the appropriate Manager or Department Head to conduct an adequate, impartial, and reliable investigation of the complaint under this Administrative Complaint Resolution Procedure. In appropriate circumstances, the College may also engage the services of an outside investigator. The College will strive to promptly and equitably resolve all complaints of discrimination, harassment, sexual misconduct or gender violence. The purpose of the investigation is to determine whether or not a violation of this policy has occurred. The investigation typically will entail interviews of the complainant and the respondent, as well as other persons believed to have pertinent factual knowledge. During the course of the investigation, each party will have the right to provide the names of witnesses and/or other evidence which

might assist in the investigation. Because resolving problems internally benefits both the employee and the College, no external parties may participate in this process.

During the course of the investigation, the College will undertake an appropriate inquiry and take such prompt and effective action as is reasonably practicable under the circumstances to support and protect the complainant and protect the College community, including taking appropriate interim measures before the final outcome of the investigation. These measures may include, but are not limited to: ordering no contact between the respondent and the complainant and directing, where necessary, appropriate College officials to alter the complainant's or the respondent's academic, College housing and/or College employment arrangements; or suspension from duties with or without pay.

The results of the investigation will be reviewed by the Vice President for Human Resources and the appropriate Senior Staff Officer who is in a supervisory position to the respondent. The Senior Staff Officer will be responsible for determining whether a violation of the policy occurred and, if so, the appropriate discipline to be imposed. The standard of review shall be whether, based upon the information obtained during the investigation, it is more likely

than not that a violation of the policy has occurred. Possible outcomes of the investigation include:

- (a) a finding that a violation of the policy has not occurred;
- (b) a finding that a violation of the policy has occurred; or
- (c) in cases here where a violation of the policy cannot be determined, but there are clear differences between the parties that need to be resolved, a negotiated resolution of the complaint will be attempted.

Within five (5) days of the conclusion of the investigation and the issuance of a decision by the Senior Staff Officer, both parties shall be notified in writing of the outcome of the investigation.

APPEALS OF SENIOR STAFF DECISIONS:

Either the respondent or the complainant may appeal the Senior Staff Officer's determinations, as follows:

- 1.If the accused party is a faculty member, then any appeal shall be in accordance with the provisions of the Faculty Handbook.
- 2.If the accused party is a staff member, the appeal must be made to the President or a committee established in accordance with the [College's Grievance Procedure](#), Step III.

The appeal must be made in writing submitted to Human Resources within ten (10) calendar

days of the date of the determination by the Senior Officer, and must specify the grounds for the appeal. The Senior Staff Officer shall review the case with the appropriate Appeals Committee and explain the reasons for their findings and decision. An appeal may, in accordance with the terms of the applicable appeals process, result in an endorsement of the Senior Staff Officer's decision, disagreement with the original findings and discipline, or a recommendation of different sanctions. There shall be no further right of appeal from the final action determined by the applicable appeals process. Notification of the outcome of the appeal shall be governed by the terms of the applicable appeals process, although in any case the Senior Staff Officer will be notified of the final disposition of the case.

SANCTIONS

In cases where the Senior Staff Officer determines that this policy has been violated, the Senior Staff Officer shall, in consultation with the Vice President for Human Resources, impose appropriate disciplinary action up to and including termination from College employment. With respect to a complaint against a faculty member, any termination decision shall be subject to the procedural requirements set forth in the Faculty Handbook.

REPORTS INVOLVING A NON-MEMBER OF THE COLLEGE

A member of the College community may report an incident of discrimination, harassment, sexual misconduct or gender based violence by a College guest, visitor, or vendor.

While the College will endeavor to promptly investigate and resolve a report involving a respondent outside the College community, its ability to take action against such a respondent may be limited. Where appropriate, however, the College will take those steps necessary to protect the College community. The Dean for Student Affairs or the Vice President for Human Resources will, where possible, inform the respondent of the report and may, after consultation with other relevant College officers, take steps to bar the respondent from the campus if that is deemed to be appropriate. The member(s) of the College who hosted or contracted with the respondent may be informed of the actions taken and the reasons for them.

SEXUAL MISCONDUCT AND GENDER BASED VIOLENCE

Sexual misconduct and gender-based violence, in particular, warrant special mention within this policy. Bowdoin College is committed to providing its students, faculty and staff with a community and place of study and work which is free of sexual harassment, sexual violence, intimidation, and exploitation. The College cannot thrive unless individual rights are respected and each member of the community is treated with civility. Sexual misconduct and gender based violence are not simply inappropriate behavior proscribed by College policy; but are also prohibited by law.

Because of the importance of these issues, information is provided to all new employees at orientation, and to all employees on an annual basis, including a description of prohibited conduct, an explanation of options available to employees for resolving complaints of sexual harassment, sexual misconduct or gender based violence, and a list of resources available to employees who have concerns or questions about sexual harassment, sexual misconduct or gender based violence. Additional information for students can be found in the Student Handbook.

It is illegal for any employee to sexually harass another employee and for any supervisory employee to permit any act of sexual harassment, sexual misconduct, or gender base violence in the workplace by anyone, whether or not it is an employee.

While sexual misconduct and gender based violence may constitute a violation of the Bowdoin College Title IX Policy, to the extent alleged behaviors fall outside the scope of that policy they may constitute violations of this policy.

DESCRIPTION OF SEXUAL MISCONDUCT

Sexual misconduct is a broad term encompassing a range of unacceptable behaviors of a sexual nature, including sexual harassment, sexual exploitation, non-consensual sexual contact and non-consensual intercourse.

DESCRIPTION OF SEXUAL HARASSMENT

Sexual harassment is a form of sexual misconduct. The term “sexual harassment” has different meanings in different contexts. Under Title IX, “sexual harassment” has a specific definition. The College prohibits sexual harassment, including beyond the strict definition of the term under Title IX. For purposes of this policy, the following definitions of “sexual harassment” apply.

In the context of employees, sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

In the context of students, sexual harassment includes unwelcome conduct of a sexual nature that substantially interferes with the student's college employment, participation in

College programs or activities, or their living or learning environment. A single instance of unwelcome conduct of a sexual nature may constitute sexual harassment if it is sufficiently serious.

DESCRIPTION OF GENDER BASED VIOLENCE

Gender based violence is also a broad term and includes dating violence, domestic violence and stalking. Gender based violence can occur between strangers or acquaintances, including people involved in both long term and brief intimate partnerships. Gender based violence can be committed by men or women, and it can occur between people of the same or different sex.

ABUSE OF POWER AND PROFESSIONAL AUTHORITY

The teacher-student relationship is at the core of Bowdoin College's educational mission where all can achieve to their highest potential. The integrity of this relationship commands our highest attention and, as teachers, we are accountable as mentors, educators, and

evaluators. The unequal institutional roles between teachers and students must be protected from influences or activities that can interfere with learning and personal development. For this reason, the College prohibits faculty members to engage in any sexual relationships with students even if they believe the relationship to be consensual. (Exception: Spouses/Domestic Partners of faculty/staff who take courses through the Educational Assistance Policy). In these relationships there exists the potential for sexual harassment, conflict of interests, and the abuse of authority, with adverse effects on employees, students and the overall College community. This policy applies even if the student is not enrolled in the faculty member's class. Also prohibited are sexual relationships between staff and students*. For purposes of this policy faculty is defined as all those in any type of teaching/mentoring positions that might include tenured and tenure track faculty, coaches, teaching assistants, post-docs, lecturers, lab instructors, etc.

Faculty and staff must be able to mentor, educate, advise, and evaluate students without potential for coercion. All employees should be aware that consensual relationships between those with unequal institutional power and those with institutionally conferred differences in status may create perceptions of favoritism or unfair treatment and may expose the College and the employee (faculty or staff member) to claims of sexual harassment and sex discrimination. Those who violate this policy will be subject to appropriate disciplinary actions up to and including termination of employment. With respect to a complaint against a faculty, any termination decision shall be subject to the procedural requirements set forth in the Faculty Handbook.

(*In rare situations there may be a preexisting relationship at the time of employment. These

may be permitted but must be immediately disclosed to one's supervisor for review by the Dean of Student Affairs and Vice President for Human Resources to understand and minimize potential areas of conflict. For example, a recent Bowdoin grad is hired in residential life and is in a relationship with a rising senior. Measures will be taken to be sure there is no supervisory aspect or preferential treatment.)

CONFIDENTIALITY

All information provided in the context of a complaint and investigation under this policy will be held in confidence to the extent possible and will be discussed only with those who have a need to know in order to investigate or resolve the complaint.

NON-RETALIATION

Under law, you may not be punished or penalized in any way for reporting, complaining about, participating in an investigation of or filing a claim concerning discrimination or harassment, or for testifying in any proceeding brought by anyone else. No employee may

retaliate against someone who files a complaint or participates in an investigation of a complaint; such retaliation will subject the offender to additional discipline and sanctions under this policy. However, if the College determines that an intentionally false complaint has been made under this policy, disciplinary action will be taken against the individual(s) filing the complaint or providing false information regarding the complaint.

Legal Recourse through the Maine Human Rights Commission

Any employee who believes he or she has been subjected to discrimination or harassment may call or write the Maine Human Rights Commission to register a complaint. The Commission may be contacted as follows:

Maine Human Rights Commission

51 State House Station

Augusta, ME 04333

Telephone: (207) 624-6290

Any complaint must be filed with the Commission within 300 days of the act of discrimination or harassment. Once the Commission has received a signed charge form, an investigation will be conducted and a determination will be made by the Commission of whether or not there are reasonable grounds to believe discrimination or harassment occurred.

If the Commission determines that discrimination or harassment did occur, it will attempt to resolve the situation between you and your employer through informal means. If informal

RESOLVE THE SITUATION BETWEEN YOU AND YOUR EMPLOYER THROUGH INFORMAL MEANS. If informal means of resolution are unsuccessful, the Commission counsel may file a civil action on your behalf in the Superior Court, seeking appropriate relief.

GLOSSARY OF TERMS

“Sexual Misconduct” is a broad term encompassing “Sexual Exploitation,” “Sexual Harassment,” “Non-Consensual Sexual Contact,” and “Non-Consensual Sexual Intercourse,” as defined in this Policy. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate sexual relationship. Sexual Misconduct can be committed by someone of any gender, and it can occur between people of the same or different sex.

“Non-Consensual Sexual Contact” means Sexual Contact that occurs without Effective Consent.

“Non-Consensual Sexual Intercourse” means Sexual Intercourse that occurs without Effective Consent.

“Sexual Contact” means the deliberate touching of a person’s intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas), or using physical force, violence, threat, intimidation or coercion to cause a person to touch their own or another person’s intimate parts.

“Sexual Exploitation” means taking sexual advantage of another person without Effective Consent, and includes, without limitation: causing or attempting to cause the Incapacitation of another person in order to gain a sexual advantage over such other person; recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person; allowing third parties to observe private sexual acts; engaging in voyeurism; and/or knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection.

“Sexual Intercourse” means penetration (anal, oral or vaginal) by a penis, tongue, finger or an inanimate object.

“Sexual Harassment”

In the context of employees, sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for

employment decisions affecting such individual; or

- such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

In the context of students, sexual harassment includes unwelcome conduct of a sexual nature that substantially interferes with the student's college employment, participation in College programs or activities, or their living or learning environment. A single instance of unwelcome conduct of a sexual nature may constitute sexual harassment if it is sufficiently serious.

“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.

“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.

“Gender Based Violence” Is a broad term encompassing “Dating Violence,” “Domestic Violence,” and “Stalking.” Gender Based Violence can occur between strangers or acquaintances, including people involved in both long term and brief intimate partnerships. Gender Based Violence can be committed by men or women, and it can occur between people of the same or different sex.

“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.”

“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).

“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 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.

Joining Bowdoin

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