

# DARTMOUTH

## Provisional Nondiscrimination and Anti-Harassment Policy and Resolution Procedures

### Policy ID

033-0008

### Effective Date

Monday, January 17, 2022

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Tuesday, February 1, 2022

### Division

Office of the President

### Office of Primary Responsibility

Office of Institutional Diversity & Equity (IDE) (<https://www.dartmouth.edu/ide/>)

### Summary of Policy

This policy affirms Dartmouth College's commitment to creating and maintaining a living, learning, and working environment free from discrimination, harassment and retaliation based on a person's membership in a protected class, and to ensure compliance with applicable federal and state laws that prohibit such conduct.

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### Affected Parties

All Groups

### Policy Statement

#### **Affected Parties**

This policy and resolution procedures apply to all Dartmouth Students, Faculty, Staff, and Invitees as defined in Section III of this policy.

## I. POLICY STATEMENT

Dartmouth College, inclusive of all its schools and faculties ("Dartmouth"), does not discriminate on the basis of age, color, disability, ethnic origin, familial status, gender expression, gender identity, marital status, national origin, race, religion, sex, sexual orientation, veteran status, or any other category protected by applicable law, in its Education Program or Activity, as defined below.

In keeping with Dartmouth's educational mission and commitment to foster a learning, living, and working environment free from discrimination and harassment, this Policy and Procedures have been established and the authority to implement the Policy is delegated to the Office of Institutional Diversity and Equity ("OIDE"). This policy pertains to acts of Prohibited Conduct committed by Students, Faculty and Staff, Third Parties, and Invitees that occur within Dartmouth's Education Program or Activity.

All members of the Dartmouth community are encouraged to report instances of alleged harassment, discrimination, or retaliation. No adverse action will be taken against an individual who makes a good faith allegation of discrimination, harassment, or retaliation under this policy, even if an investigation fails to substantiate the allegation. However, individuals who are found to have made dishonest statements or make statements with willful disregard for the truth during an investigation or enforcement procedure under this policy may be subject to disciplinary action.

Complaints of sexual and gender-based harassment and discrimination are governed by the [Dartmouth College Sexual and Gender-Based Misconduct Policy](https://policies.dartmouth.edu/policy/dartmouth-college-policy-sexual-and-gender-based-misconduct) (<https://policies.dartmouth.edu/policy/dartmouth-college-policy-sexual-and-gender-based-misconduct>). Inquiries about the application of Title IX and its implementing regulations may be referred to the [Title IX Coordinator](mailto:titleix@dartmouth.edu) (<mailto:titleix@dartmouth.edu>), to the Assistant Secretary for Civil Rights in the United States Department of Education, or both.

Complaints related to accommodations under the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act ("Section 504") are governed by [Dartmouth College Disability Accommodation Appeal Policy](https://policies.dartmouth.edu/policy/dartmouth-college-disability-accommodation-appeal-policy) (<https://policies.dartmouth.edu/policy/dartmouth-college-disability-accommodation-appeal-policy>). Inquiries about the ADA and Section 504 appeals may be referred to the [ADA/504 Coordinator](mailto:ADA.Institutional.Diversity.and.Equity@dartmouth.edu) (<mailto:ADA.Institutional.Diversity.and.Equity@dartmouth.edu>). Any questions about the applicability of this policy will be decided by Dartmouth's ADA/504 Coordinator (ADAC).

Complaints related to alleged faculty misconduct in [Arts and Sciences](https://faculty.dartmouth.edu/dean/sites/faculty_dean.prod/files/dean_faculty/wysiwyg/facultyhandbook_jul_2021_ii.pdf) ([https://faculty.dartmouth.edu/dean/sites/faculty\\_dean.prod/files/dean\\_faculty/wysiwyg/facultyhandbook\\_jul\\_2021\\_ii.pdf](https://faculty.dartmouth.edu/dean/sites/faculty_dean.prod/files/dean_faculty/wysiwyg/facultyhandbook_jul_2021_ii.pdf)), [Tuck School of Business](https://www.tuck.dartmouth.edu/uploads/content/TuckFacultyHandbook18-19FINAL.pdf) (<https://www.tuck.dartmouth.edu/uploads/content/TuckFacultyHandbook18-19FINAL.pdf>), and Thayer School of Engineering Faculty that do not fall within the scope of this policy may be referred to the Faculty Grievance Processes located in their respective Faculty Handbooks.

Complaints related to alleged faculty and staff misconduct in the Geisel School of Medicine that do not fall within the scope of this policy may be referred to the [Policy on Expectations for Professionalism for Faculty, Non-Faculty Academics, and Staff](https://geiselmed.dartmouth.edu/oaa/policy-on-expectations-for-professionalism-for-faculty-non-faculty-academics-and-staff-of-the-geisel-school-of-medicine-at-dartmouth/) (<https://geiselmed.dartmouth.edu/oaa/policy-on-expectations-for-professionalism-for-faculty-non-faculty-academics-and-staff-of-the-geisel-school-of-medicine-at-dartmouth/>).

This Policy and Resolution Procedures do not replace, modify, or supersede the Agreement Concerning Academic Freedom, Tenure, and Responsibility of Faculty Members Voted by the Board of Trustees (January 15, 1971) after approval by the Faculty (October 19, 1970) as amended June 12, 2009, and as amended in the future (the Agreement) set forth in the Organization of the Faculty of Dartmouth College (OFDC). All disciplinary action that may arise from this Policy and Resolution Procedures shall continue to be covered by the Agreement.

This policy supplants the (a) Student Grievance Policy applicable to students enrolled in the College and Dartmouth's graduate and professional schools; and (b) the Equal Opportunity Grievance Procedures for Employees of Dartmouth.

## II. PRIVACY AND CONFIDENTIALITY

Dartmouth is committed to making reasonable efforts to protect the privacy interests of Complainants, Respondents and/or other individuals involved in a report under this policy.

**Privacy:** Information related to a report of harassment or discrimination under this policy may only be shared with a limited number of individuals who "need to know" in order to ensure the prompt, equitable and impartial review and/or investigation and resolution of the report. However, in the event of a report indicating an imminent threat of harm to self or others, information will be promptly shared with the Department of Safety and Security and/or local law enforcement. Training related to harassment and discrimination as well as safeguarding private information in accordance with this policy will routinely be made available to the Dartmouth community.

**Confidentiality:** For the purposes of this policy, confidentiality means that campus or community professionals with the statutorily granted ability to maintain information as privileged cannot reveal identifiable information shared by an individual to any other person without express permission of the individual, or as otherwise permitted or required by law. Those campus and community professionals who have the ability to maintain privileged communications and keep information confidential, referred to as Confidential Resources, include:

1. health care providers (and those who assist in the provision of confidential services) in [Dartmouth College Health Services](https://students.dartmouth.edu/health-service/primary-care/inpatient-care/) (<https://students.dartmouth.edu/health-service/primary-care/inpatient-care/>);
2. mental health professionals (and those who assist in the provision of confidential services) in the [Dartmouth College Counseling Center](https://students.dartmouth.edu/health-service/counseling/about/) (<https://students.dartmouth.edu/health-service/counseling/about/>), in the Faculty/Employment Assistance Program, and in any programs that contract with Dartmouth to provide mental health professional services;
3. [ordained clergy](https://students.dartmouth.edu/tucker/) (<https://students.dartmouth.edu/tucker/>), all of whom normally have privileged confidentiality that is recognized by New Hampshire state law.

These individuals are required to maintain confidentiality when they receive information in any of the above capacities, unless (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 18; or (iv) as otherwise required or permitted by law or court order.

The Dartmouth College Ombudsperson is also considered a Confidential Resource, but certain exceptions apply to the role. Specifically:

- sharing information with the Ombudsperson does not constitute legal notice to Dartmouth and does not constitute a complaint under any of Dartmouth's policies;
- the Ombudsperson is independent of the rest of Dartmouth's organizational structure; and
- the Ombudsperson does not have the statutorily granted ability to maintain information as privileged, so communications with the Ombudsperson are subject to disclosure in legal proceedings.

**Clery Act Reporting:** Pursuant to the Clery Act, Dartmouth includes statistics about Clery Act crimes in its daily crime log and Annual Security Report and provides those statistics to the United States Department of Education; in all these instances, the information is reported in a manner that does not include personally identifying information

about persons involved in an incident. Dartmouth also reports aggregate numbers of incidents (with no detail or personally identifying information) disclosed to Confidential Resources. Dartmouth will also issue a timely warning to the community for reports of Clery-defined conduct that may constitute a serious and ongoing threat, as outlined in the Annual Security Report.

### **III. TO WHOM THIS POLICY APPLIES**

This policy and process applies broadly to individuals who are part of the Dartmouth community, including:

- Undergraduate, graduate, and professional school students in Arts and Sciences, the Geisel School of Medicine, the Guarini School of Graduate and Advanced Studies, the Thayer School of Engineering, and the Tuck School of Business, and visiting students in any of these schools (collectively "Students");
- Persons employed by Dartmouth, including all faculty members, postdoctoral fellows/scholars, and all staff positions (including all exempt and non-exempt positions, bargaining unit positions, non-faculty academic positions [such as Lecturers, Research Associates, Research Fellows, and Research Scientists] and senior administrative and leadership positions), as well as those adjunct and visiting faculty, clinicians, and research or health scientists who are not employed by Dartmouth but have Dartmouth faculty, affiliate, postdoctoral, or house staff appointments for the purpose of teaching and/or research at Dartmouth, including but not limited to those associated with the Geisel School of Medicine (collectively "Faculty and Staff" or "Employees"); and
- Contractors, vendors, or other consulting parties contractually obligated to Dartmouth.

Alumni, visitors, volunteers, or guests of Dartmouth, including prospective Students or Applicants for employment ("Invitees") are protected as Complainants by the prohibitions against harassment and discrimination detailed in this policy to the extent possible. Invitees cannot be named as Respondents under this Policy.

### **IV. FREE SPEECH AND ACADEMIC INTEGRITY**

Dartmouth is committed to the principles of free speech. Vigorous discussion, debate and academic freedom are fundamental to this commitment and may include speech that is – for instance – controversial and/or deemed by some members of the community as offensive. Controversy or offensiveness, on their own, is not sufficient for the speech to constitute Prohibited Conduct. Rather, conduct must rise to the level of discrimination, harassment, or retaliation as defined herein in order to constitute Prohibited Conduct. Prohibited Conduct compromises Dartmouth's integrity and tradition of intellectual freedom and will not be allowed to persist.

### **V. PROHIBITED CONDUCT**

Dartmouth is committed to creating and maintaining a living, learning, and working environment free from discrimination and harassment. To that end, Dartmouth prohibits the following types of conduct, collectively, "Prohibited Conduct".

#### **Discrimination**

Discrimination under this policy refers to:

1. different and unfavorable treatment of an individual or group, compared with a similarly situated individual or group, based on protected class status, that results in an adverse education or employment action for that individual or group, or
2. a policy or practice that is neutral on its face but unduly disadvantages, or adversely impacts, individuals based on their protected class, and is not justified by a legitimate, nondiscriminatory reason.

## **Harassment**

Harassment is any act of intimidation or hostility based on protected class status (or perceived protected class status) that is sufficiently severe, persistent, or pervasive such that it has the purpose or effect of unreasonably interfering with, limiting or depriving an individual from participating in or benefiting from Dartmouth's Education Programs or Activities under both an objective and subjective standard (*hostile environment*). In evaluating whether a *hostile environment* exists, Dartmouth will evaluate the totality of known circumstances, including, but not limited to:

- a) the frequency, nature and severity of the conduct;
- b) whether the conduct was physically threatening;
- c) the effect of the conduct on the Complainant's or Third Party's mental or emotional state;
- d) whether the conduct was directed at more than one person;
- e) whether the conduct arose in the context of other discriminatory conduct;
- f) whether the conduct unreasonably interfered with the Complainant's or Third Party's educational or work performance and/or Dartmouth's Education Programs or Activities;
- g) whether the conduct implicates academic freedom or protected speech; and,
- h) other relevant factors that may arise from consideration of the reported facts and circumstances.

## **Retaliation**

Retaliation under this policy means any adverse action, intimidation, threat, coercion, or discrimination against an individual for the purpose of interfering with any right or privilege secured by applicable laws or Dartmouth policy, or because the individual has made a report or Formal Complaint of Prohibited Conduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding or hearing under this policy. Retaliation includes such conduct through associates or agents of a Complainant, Respondent, Third Party Reporter, or participant in any investigation or proceeding related to this policy.

## **VI. REPORTING CONSIDERATIONS**

Dartmouth offers professional resources for Students, Faculty, and Staff (whether they are Complainants, Third Party Reporters, or Respondents) to provide support and guidance throughout the initiation, investigation, and resolution of a report of Prohibited Conduct. Individuals with questions or concerns about Dartmouth's process may contact the Assistant Vice President ("AVP") for Equity and Compliance in the Office of Institutional Diversity and Equity (or their designee) directly to learn about the process of reporting the conduct to Dartmouth, local and/or state agencies. Any individual who is uncertain what they wish to do in response to an alleged incident of Prohibited Conduct, including how or whether to report the conduct, may also contact and consult a Confidential Resource to address questions and concerns in a confidential setting.

Any individual may make a report of Prohibited Conduct under this policy regardless of affiliation with Dartmouth and regardless of whether the person reporting is the person alleged to be the victim of conduct. Reports can be made in person or by mail, telephone, or electronic mail, using the contact information listed for Institutional Diversity and Equity, or through the EthicsPoint Hotline; a report pertaining to this policy is considered received when the AVP for Equity and Compliance in the Office of Institutional Diversity and Equity acknowledges the person's verbal or written report.

Dartmouth recognizes that deciding whether to make a report of Prohibited Conduct is a personal decision. When a report is made, Dartmouth will consider the Complainant's wishes and seek to respect their autonomy in making the determination regarding how to proceed. In limited circumstances, typically where the Office of Institutional Diversity and Equity determines there is a risk of imminent harm to an individual or others or a threat to the physical health and

safety of the campus or any Dartmouth Education Program or Activity, Dartmouth may take immediate action upon receipt of a report of Prohibited Conduct. In such circumstances, the reasons and steps Dartmouth will take will be explained to the Complainant and, as appropriate, the Third Party Reporter.

Dartmouth is committed to educating and informing individual(s) regarding the choices and options available to them, including resources and processes inside and outside Dartmouth. Dartmouth is committed to protecting all participants in any review, investigation or proceeding related to this policy from retaliation. An individual may choose to seek assistance, support, or guidance from a Confidential Resource on campus or in the community. A disclosure to a Confidential Resource **does not** constitute a report to Dartmouth.

Reported conduct which occurred prior to the adoption of this Policy will be reviewed under the policy and/or provision in effect at the time of the alleged infraction (when reasonably available), but the resolution procedure in place at the time of the report will be used to resolve the complaint.

**Designated Reporting Options:** The persons listed below are considered Designated Reporting Options as they are available to various constituent groups throughout the campus to provide varying levels of support. These individuals are provided notice of their responsibilities under this policy and are expected to notify OIDE of any reports made to them. Making an initial report to a person listed below and/or to the Office of Institutional Diversity and Equity (OIDE) **does not** constitute a formal complaint nor does it require the person bringing forward the concern to decide whether to request a specific course of action. Deciding how to proceed can be a process that unfolds over time with support and assistance of trained OIDE staff.

- Any Equity and Compliance staff member in the Office of Institutional Diversity and Equity
- Dean(s) of the College
- Dean(s) of the Faculty of Arts and Sciences
- Dean(s) of the Geisel School of Medicine
- Dean(s) of the Guarini School of Graduate and Advanced Studies
- Dean(s) of the Thayer School of Engineering
- Dean(s) of the Tuck School of Business
- Staff in the office of Human Resources (<https://www.dartmouth.edu/hrs/>)
- Staff in the Department of Safety and Security (<https://www.dartmouth.edu/security/>)

**Anonymous Reporting:** Anyone can make an anonymous report through the Dartmouth Compliance and Ethics Hotline (<https://secure.ethicspoint.com/domain/media/en/gui/35378/index.html>), Dartmouth's telephone and web-based confidential reporting tool. The Hotline allows the reporter to report concerns and communicate with Dartmouth administrators while maintaining anonymity. Depending on the nature of the information provided, Dartmouth's ability to respond may be limited. Contact information for anonymous reporting is located in Section XVI of this Policy.

**Time Frame for Reporting:** There is no time limit on reporting violations of this policy, although Dartmouth's ability to investigate and respond fully may become more limited with the passage of time. If the Respondent is no longer affiliated with Dartmouth (e.g., a report is made after a student has left or graduated or an employee no longer works for Dartmouth), Dartmouth will still provide reasonably available supports to the Complainant, assist the Complainant in identifying external reporting options, and may use the reported information to enhance overall programming and supports for protected class groups.

A report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Office of Institutional Diversity and Equity. Requests for appointments can be made by calling [\(603\) 646-0922](tel:6036460922) or visiting the Equity and Compliance staff located in Parkhurst Hall, Suite 05. The reporting party should expect to receive an acknowledgement of receipt from OIDE within two to three business days of submitting a report.

Individuals should not use this policy to report emergencies. Incidents where safety is of concern should be directed to the Dartmouth College Department of Safety and Security, or local law enforcement. Contact information for these resources can be found in section XVI of this Policy.

## **VII. MAKING A REPORT OR FILING A COMPLAINT**

A report may be made by a Complainant or a Third Party Reporter to OIDE through a Designated Reporting Option as described above, or directly to OIDE. A report can be made by phone, email, through an in-person meeting, or via the EthicsPoint hotline.

Regardless of how a complaint reaches the OIDE and the medium in which the complaint is made, the Office will document every complaint, any actions taken in response to the complaint, and the resolution, by one of the two methods described below; and will retain copies of all reports generated as a result of any investigation. These records will be kept private to the extent required or permitted by law. Complainants and Respondents shall have access to their respective records to the extent required by the Family Educational Rights and Privacy Act and/or New Hampshire legal requirements for access to personnel records.

### **Initial Assessment Upon Receipt of a Report:**

Upon receipt of a report of Prohibited Conduct, Dartmouth will reach out to a Complainant and conduct an Initial Assessment of the reported information. In the Initial Assessment, OIDE determines whether the report has alleged sufficient Prohibited Conduct by a Respondent subject to this policy. The Initial Assessment seeks to gather information only to determine whether this policy applies to the report and, if so, what form of resolution is reasonably available and appropriate. The Initial Assessment in no way represents a finding of fact or responsibility.

The Initial Assessment evaluates the reasonably available information to make the following determinations:

1. is the Respondent an individual covered by this Policy; and
2. has the Complainant or Third Party Reporter provided sufficient information to determine whether the conduct would be covered under this Policy; and
3. did the reported Prohibited Conduct occur within Dartmouth's Education Program or Activity?

If the answer to any of these questions is no, then OIDE does not have the authority to resolve the complaint and the Complainant or Third Party Reporter would be referred to other supportive resources if warranted, such as Human Resources or a Dean, in order to resolve the conflict.

If the answer to all three questions is yes, then the Complainant or Third Party Reporter will be notified of the informal and formal resolution processes. To proceed with a formal resolution, the Complainant or Third Party Reporter must submit a Formal Complaint, found [here \(https://cm.maxient.com/reportingform.php?DartmouthCollege&layout\\_id=11\)](https://cm.maxient.com/reportingform.php?DartmouthCollege&layout_id=11).

### **Interim or Protective Actions**

Dartmouth may implement interim action steps prior to completing an informal or formal resolution process based on the nature of the alleged conduct. OIDE makes recommendations to implement interim actions on a case-by-case

basis to the appropriate Dean, divisional or department leader, or Human Resources representative, who shall decide which interim actions to take pursuant to any applicable process depending on the Respondent's category.

Interim actions may include but are not limited to:

- Immediate suspension of a Student Respondent;
- Paid or unpaid administrative leave for a Faculty or Staff Respondent;
- Withdrawal from sponsored research projects;
- Change in the Respondent's campus housing;
- Temporary exclusion from all or part of campus housing;
- Temporary exclusion from specified activities or areas of campus;
- Prohibition from participating in student activities or representing Dartmouth in any capacity such as playing on an official team; serving in student government; performing in an official band, ensemble, or production; participating in a recognized student organization; participating in Greek life activities; or participating in academic honor ceremonies;
- Changes to academic or employment arrangements, schedules, or supervision;
- Temporary delay of graduation or degree conferral;
- A no contact order; or
- Any other restrictive measure that can be used to achieve the goals of this policy.

Failure to comply with an interim measure constitutes a violation of this Policy.

## **VIII. INFORMAL RESOLUTION**

In recognition that a wide spectrum of conduct can constitute violations of Dartmouth policies, the OIDE may resolve reports informally as appropriate based on the circumstances. The informal resolution process related to this Policy provides a mechanism for Dartmouth to resolve issues of varying degrees of seriousness pertaining to protected class. Dartmouth strives to resolve conflicts at the lowest possible level of intervention. Often, the most effective avenue for informal resolution of complaints is direct conversation with the person or persons reported to have caused the offense, and thoughtful discussion of the issue that will include exploring options for resolution. Interim or protective actions as described above may be implemented as a part of an informal resolution. At the conclusion of the informal resolution process, a letter will be issued to the Complainant and Respondent summarizing any agreements or adjustments made as a result. The OIDE will retain a copy of this letter, which will be kept private to the extent required or permitted by law.

## **IX. FORMAL RESOLUTION**

The pursuit of a formal resolution, or investigation, into a report of discrimination or harassment can occur when:

- attempts at Informal Resolution between a Complainant and Respondent are unsuccessful;
- a Complainant chooses to pursue a Formal Resolution and files a Formal Complaint; or
- the AVP for Equity and Compliance (or designee) determines that a Formal Resolution is appropriate.

A Formal Complaint is a document submitted to OIDE by the Complainant or Third Party Reporter alleging that a Respondent engaged in Prohibited Conduct and requesting a Formal Resolution. Following the filing of a Formal Complaint, Dartmouth will initiate an investigation to determine (by a preponderance of the evidence) whether this Policy has been violated.



If OIDE determines that a Formal Resolution may be an appropriate potential resolution to a complaint, OIDE shall notify the Complainant and Respondent in writing, normally within thirty days of receiving the complaint. If there are multiple Complainants, OIDE has the discretion to determine whether this initial notification and all subsequent communications should occur with individual Complainants or to the Complainants as a group or multiple sub-groups, depending on the nature of the complaint.

#### **A. Notice**

OIDE's initial notification to the Complainant and the Respondent shall include: the names of the Complainant and Respondent; a description of the allegations in the complaint, including the date, location, and nature of the alleged conduct; an invitation to provide any information relevant to the complaint and the names of any witnesses with relevant firsthand knowledge of the alleged conduct, within thirty days of the date of the notification; a prohibition against retaliation; a direction to preserve any potentially relevant information; and an instruction to keep the matter confidential.

OIDE's initial notification to the Respondent shall also include an invitation to provide a written response to the allegations in the complaint within five business days of the date of the notification; a description of the steps OIDE may take to investigate and resolve a complaint; a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the formal resolution process; and that the parties are entitled to an advisor of their choice throughout the process.

#### **B. Investigation**

Based on the parties' responses to OIDE's initial notification, OIDE may undertake any steps they determine to be appropriate in seeking to investigate and resolve a complaint, including but not limited to: consulting with any other campus office on a confidential basis; meeting with one or both of the parties, reviewing records provided by one or both of the parties, or meeting with witnesses identified by one or both of the parties; or appointing a trained internal or external investigator to conduct a confidential, prompt, thorough, fair, and impartial investigation resulting in written findings of fact and determinations of the violation of any applicable law or any Dartmouth policy or standard.

During this process, the parties have the right to be accompanied to meetings or conversations with OIDE or the investigator by a single advisor/observer who is not otherwise involved in the circumstances underlying the complaint, or responsible—for example, by virtue of a position at Dartmouth or membership on a committee—for taking current or future action in response to the complaint. Advisors/observers may not actively participate by answering questions or making presentations on behalf of the parties and are limited to advising the parties privately. Advisors/observers are subject to the same confidentiality obligations applicable to the parties.

If OIDE decides to appoint an investigator, OIDE shall notify the parties of the name of the investigator in writing and shall give the parties the opportunity to challenge the selection of the investigator by making a written submission within five days describing any conflict of interest or bias that would compromise that individual's objectivity. OIDE shall issue a written determination to the parties regarding the outcome of any such challenge, and that determination shall be final.

An investigation shall normally be completed within sixty days from the notification to the parties of the selection of the investigator or OIDE's disposition of any challenges to the selection of the investigator. An investigative timeline can be extended by OIDE for good cause. The investigator may conduct interviews with, and request relevant documents, emails, text messages, photos, or other records from, the parties and any witnesses.

Throughout the investigation process, the investigator shall provide the parties with the following, along with reasonable time frames for the completion of each step:

- the opportunity to submit information, and/or the names of witnesses with relevant firsthand knowledge, supporting their position;
- the opportunity to review information provided by the other party, to the extent permitted by FERPA and other applicable laws, and to submit questions to be posed to the other party's witness(es) through the investigator;
- the opportunity to be notified of substantial new factual allegations and to respond with additional information and/or witnesses;
- the opportunity to be notified of any alleged violation of applicable law or Dartmouth policy or standard and to respond; and
- the opportunity to review the investigator's preliminary factual findings and determinations of any violation of law or Dartmouth policy or standard, and to provide written responses that the investigator shall consider in producing the final version of such findings and determinations.

### **C. Initial Investigation Report**

The investigator will produce an initial written investigation report that contains the relevant information and facts gathered during the investigation and may include direct observations and reasonable inferences drawn from the facts and discussion of any consistencies or inconsistencies between the various sources of information. The investigator has the discretion to determine the relevance of any witness or other evidence and shall exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative. For example, the investigator shall exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. The investigation report will be a fair and thorough summary of all relevant information gathered that supports (or detracts from) the accounts of the Complainant, Third Party Reporter, Respondent, or other witnesses.

The initial investigation report will be shared with the Complainant and the Respondent to provide the Complainant and the Respondent equal and timely access to information that will be used in determining whether there was a policy violation. Within five business days, the Complainant and Respondent may, in a written submission or an in-person meeting with the investigator, offer additional comment or feedback on the facts as gathered, clarify information previously shared, suggest additional witnesses, suggest additional lines of questioning or inquiry, or identify any other relevant information or evidence to assure the thoroughness, sufficiency and reliability of the investigation. Any information gathered through additional investigation steps will be shared with both parties, and, as appropriate, the parties may have the opportunity for further response if sufficient new information has been gathered.

### **D. Final Investigation Report**

After reviewing any additional information and incorporating the feedback of the parties, the investigator will prepare a final investigative report, which will include a finding as to whether there is sufficient information, by a preponderance of the evidence, to support responsibility for a violation of the Nondiscrimination and Anti-Harassment Policy or any other Dartmouth policies that were implicated in this investigation. In applying the preponderance of the evidence standard, the investigator will determine and articulate whether there is sufficient evidence to support the finding of responsibility, as to each element of each Policy violation at issue.

The investigator retains the discretion to decline to make a finding of responsibility based on the determination that the Policy does not apply to the reported conduct. The investigator's determination, and a detailed rationale for the determination, shall be included in the final report. The investigator's report will include findings of fact and credibility assessments based on the investigator's interactions with the Complainant, Respondent, and witnesses, as well as the evidence provided.

The investigator shall issue the final report to OIDE, who will provide the report simultaneously to the Dean(s) or supervisor(s), and to all parties.

Respondents have the opportunity to respond to the facts and determinations contained in the investigative report within five business days of its distribution. Following that opportunity to respond, an outcome notice summarizing the decision will be issued to the Respondent. If there is a finding of Responsible, the notice will contain information on the Sanctioning stage of the resolution process.

For undergraduate students, the outcome letter will also be sent to their Undergraduate Dean; for graduate and professional students, the letter will be sent to the student affairs dean for their respective school. For staff, faculty, and postdoctoral Respondents, the Respondent's supervisor or relevant academic dean will receive the outcome letter.

## **X. APPEAL PROCESS**

The Respondent has the right to appeal a finding of Responsible under this Policy. The Appellate Officer will be the Senior Vice President/Senior Diversity Officer or their designee. Requests for appeal, including any supportive information, must be submitted in writing to the Appellate Officer within three business days following the receipt of the outcome letter.

Appeals must be based on one or more of these limited grounds:

1. Substantial procedural irregularity that affected the outcome of the matter and/or sanction; or
2. New evidence, not reasonably available at the time of the investigation, that could affect the outcome of the matter.

Appeals that are not based on one or more of these grounds shall be denied by the Appellate Officer. If either or both of these grounds are substantiated, the appeal will be granted. If the appeal is denied, the matter is closed and the investigator's determination is final.

If an appeal is granted, the Appellate Officer may, at their discretion, send the case back to the investigator for additional fact-finding, or they may modify the decision.

## **XI. SANCTIONS**

A Student or Faculty or Staff found Responsible for Prohibited Conduct in violation of this Policy is subject to disciplinary action. Any disciplinary action will be proportionate to the frequency and severity of the conduct and is intended to remedy the policy violation and prevent its recurrence. Educational opportunities will be applied as a sanction whenever appropriate, in keeping with the mission of Dartmouth.

Disciplinary action may include but is not limited to a requirement not to repeat or continue the discriminatory or harassing conduct; a requirement to participate in training; reprimand; denial of merit pay increase or promotion; probation; suspension; reassignment; administrative leave without pay; or permanent separation from Dartmouth.

Visitors, Invitees, or those under contractual obligations with the College who are found to have violated this policy may have their relationship with Dartmouth suspended or terminated, and/or their privilege of being on Dartmouth premises permanently withdrawn.

For Student Respondents, OIDE will recommend disciplinary actions in consultation with the Director of Community Standards and Accountability and/or the relevant Student Affairs deans in the graduate and professional schools.

For Staff Respondents, OIDE will recommend disciplinary actions in consultation with the Director of Employee and Labor Relations in Human Resources and the staff member's supervisor.

For Faculty Respondents, OIDE will refer the responsibility for any disciplinary actions to the Dean in accordance with the Agreement set forth in the Organization of the General Faculty (OGFDC).

## **XII. EFFECTS OF WITHDRAWAL**

If a Respondent withdraws or separates from Dartmouth at any time after a report has been made, Dartmouth may continue with any of the processes for informal or formal resolution, even without the Respondent's participation. The determination as to how to resolve the report once a Respondent is no longer affiliated with Dartmouth will be based on the AVP for Equity and Compliance's assessment of the actions necessary to meet the Policy obligations, in consultation with other institutional officials as appropriate.

If a Student Respondent withdraws from Dartmouth after Dartmouth has begun an investigation but prior to a finding or resolution, an entry may, when circumstances warrant, be made on the Respondent's transcript that indicates they withdrew with a disciplinary investigation or Complaint pending. As noted above, Dartmouth may elect to continue with the investigation.

If a Faculty or Staff Respondent separates from the College after Dartmouth has begun an investigation but prior to disciplinary charges being filed, an entry may, when circumstances warrant, be made in the Respondent's personnel file indicating that their appointment or employment terminated with an investigation pending. Dartmouth may elect to continue with the investigation. If a Faculty or Staff Respondent separates after disciplinary proceedings have been initiated but prior to resolution, an entry may, when circumstances warrant, be made in the Respondent's personnel file indicating that their appointment or employment terminated with disciplinary charges pending.

## **XIII. VIOLATIONS OF NEW HAMPSHIRE STATE LAW**

Behavior that violates this policy also may violate the laws of the local jurisdiction in which the incident occurred and subject a Respondent to criminal prosecution by the presiding authority. An individual can choose to make a report to external law enforcement at any time and doing so does not preclude the individual from making a report to Dartmouth. Both processes can be pursued if an individual chooses to do so. Dartmouth encourages individuals to report an incident that may be a violation of New Hampshire State Law to local or state authorities. Prompt reporting to external law enforcement is important in a criminal prosecution.

Individuals may also file complaints directly with the NH Commission for Human Rights or the federal Equal Employment Opportunity Commission or the Office for Civil Rights, within the United States Department of Education. Their contact information is provided below in section XVI.

## **XIV. AMENDMENT**

This policy may be revoked or amended by Dartmouth, in whole or in part, from time to time, via the Office of Institutional Diversity and Equity, which is authorized to make revocations or amendments on behalf of Dartmouth, in consultation with the Senior Vice President / Senior Diversity Officer, the Provost, and the Executive Vice President. Any such revocation or amendment shall become effective upon adoption by OIDE, or as of such other time as OIDE shall specify and will be reflected in the current version of the policy posted within the Dartmouth College Policy Portal. Questions or disputes regarding the application, interpretation or implementation of this policy shall be resolved by OIDE; the decision of such office on the matter shall be binding on Dartmouth and all individuals subject to this policy.

## **XV. DEFINITIONS**

### **Appellate Officer**

The Dartmouth official designated to receive and review appeals.

### **Complainant**

A person or department who has reported a potential violation of this policy.

### **Confidential Resource**

Those professionals noted in Section II who have been designated by the college as being able to hear and keep information confidential as outlined above.

### **Designated Reporting Option**

A specific office or employee (see section VI of this policy) that an individual can contact to report conduct that could be a violation of the Policy.

### **Education Program or Activity**

This includes all of Dartmouth's operations, including locations, events, or circumstances over which Dartmouth exercised substantial control over both the Respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is officially recognized by Dartmouth. Examples include Dartmouth-sponsored, Dartmouth-funded, or otherwise Dartmouth-supported study off campus, research, internship, mentorship, summer session, conferences, meetings, social events, or other affiliated programs or premises.

### **Formal Complaint**

A document submitted to OIDE by the Complainant or Third Party Reporter alleging that a Respondent engaged in Prohibited Conduct and requesting a Formal Resolution.

### **Formal Resolution**

An investigative process by which a Complainant can resolve their report of harassment or discrimination. The process will result in a finding related to the allegation and, where the Respondent is found responsible, a sanction according to the applicable disciplinary process based on the category of the Respondent.

### **Initial Assessment**

An evaluative process conducted by OIDE when a report is received in order to determine scope and jurisdiction.

### **Informal Resolution**

A process by which a Complainant and Respondent can resolve a conflict in a mutually agreeable way. An informal resolution is facilitated by OIDE and will not result in an investigation or finding, but will be appropriately documented by OIDE.

**Invitees**

Alumni, visitors, volunteers, or guests of Dartmouth, including prospective Students or Applicants for employment.

**Not Responsible**

A determination made at the conclusion of a Formal Resolution, in which the reported conduct did not likely occur based on a Preponderance of Evidence.

**Preponderance of Evidence**

A standard of evidence by which it is more likely than not that the incident or series of events occurred in the way reported. This standard applies to determinations made under this policy.

**Protected Class**

Identities that are protected from discrimination and/or harassment under applicable laws or Dartmouth policy. Those identities include age, color, disability, ethnic origin, familial status, gender expression, gender identity, marital status, national origin, race, religion, sex, sexual orientation, veteran status, or other category defined under applicable law or Dartmouth policy.

**Respondent**

A person who is alleged to have violated this policy.

**Responsible**

A determination made at the conclusion of a Formal Resolution, in which the reported conduct did more likely than not occur based on a Preponderance of Evidence.

**Third Party Reporter**

A person who is a witness or has actual knowledge regarding a potential violation of this policy. If that party reports conduct experienced by another, they are a Third Party Reporter.

**Witness**

In matters of a formal complaint, individuals named by the Complainant and/or the Respondent who has knowledge of the incident that occurred.

**XVI. CONTACT INFORMATION****Dartmouth College Offices:**

Office of Institutional Diversity and Equity (OIDE)

Equity and Compliance

Parkhurst 05

Hanover, NH 03755

(603) 646-0922

Email: [TitleIX@dartmouth.edu](mailto:TitleIX@dartmouth.edu) (<mailto:TitleIX@dartmouth.edu>)

Department of Safety and Security

5 Rope Ferry Road, 3rd floor

Hanover, NH 03755

(603) 646-4000

(603) 646-3333 (emergency)

Email: [Safety.and.Security@dartmouth.edu](mailto:Safety.and.Security@dartmouth.edu) (<mailto:Safety.and.Security@dartmouth.edu>)

## Risk and Internal Controls Services

6012 North Fairbanks, Room 200

8 Cemetery Lane

Hanover, New Hampshire 03755

Hinman: HB 6012

Phone: 603 646-2442

Email: [Risk.Management@dartmouth.edu](mailto:Risk.Management@dartmouth.edu) (<mailto:Risk.Management@dartmouth.edu>)

## EthicsPoint Hotline

Telephone: (888)-497-0516

Online: [Dartmouth Compliance and Ethics Hotline \(https://secure.ethicspoint.com/domain/en/report\\_company.asp?clientid=35378&override=yes&agreement=no\)](https://secure.ethicspoint.com/domain/en/report_company.asp?clientid=35378&override=yes&agreement=no)

## **Federal, State, and Local Law Enforcement Agencies:**

New Hampshire Commission for Human Rights

Phone: 603.271.2767

Email: <mailto:info@eeoc.gov> (<mailto:info@eeoc.gov>)

Equal Employment Opportunity Commission Boston Office

Phone: 800.669.4000

Videophone: 844.234.5122

Email: [info@eeoc.gov](mailto:info@eeoc.gov) (<mailto:info@eeoc.gov>)

Office of Civil Rights, Region 1 U.S. Department of Education

Phone: 617.289.0111

Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov) (<mailto:OCR.Boston@ed.gov>)

Hanover Police Department

46 Lyme Rd

Hanover, NH 03755

Phone: (603) 643-2222

911 (emergency)

New Hampshire Attorney General

Phone: 603.271.3658

Email: [attorneygeneral@doj.nh.gov](mailto:attorneygeneral@doj.nh.gov) (<mailto:attorneygeneral@doj.nh.gov>)

## **FORMS**

[Nondiscrimination and Anti-Harassment Formal Complaint \(https://cm.maxient.com/reportingform.php?DartmouthCollege&layout\\_id=11\)](https://cm.maxient.com/reportingform.php?DartmouthCollege&layout_id=11)

## Exclusions & Exceptions

- o N/A

## Related Information

This policy is adopted in compliance with:

- [Title VI of the Civil Rights Act of 1964 \(https://www.findlaw.com/civilrights/discrimination/title-vi-of-the-civil-rights-act-of-1964-non-discrimination-in.html\)](https://www.findlaw.com/civilrights/discrimination/title-vi-of-the-civil-rights-act-of-1964-non-discrimination-in.html) (42 U.S.C. § 2000d et seq), - prohibits discrimination on the bases of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance
- [Title VII of the Civil Rights Act of 1964 \(https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964\)](https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964) (42 U.S.C. § 2000d et seq) - prohibits employment discrimination based on race, color, religion, sex and national origin
- [Title IX of the Education Amendments of 1972 \(https://www.findlaw.com/education/discrimination-harassment-at-school/liability-under-title-ix-parties-and-standards.html\)](https://www.findlaw.com/education/discrimination-harassment-at-school/liability-under-title-ix-parties-and-standards.html) (20 USC § 1681 et seq), - prohibits sex discrimination (Please refer to Dartmouth's Sexual Misconduct Policy for Title IX violations)
- [Section 504 of the Rehabilitation Act of 1973 \(https://www.findlaw.com/education/special-education-and-disabilities/504-accommodations-in-schools.html\)](https://www.findlaw.com/education/special-education-and-disabilities/504-accommodations-in-schools.html) (29 U.S.C. § 701 et seq)- prohibits disability discrimination
- [Americans with Disabilities Act of 1990 \(https://www.findlaw.com/civilrights/discrimination/the-americans-with-disabilities-act-overview.html\)](https://www.findlaw.com/civilrights/discrimination/the-americans-with-disabilities-act-overview.html) ((42 U.S.C. § 12101 et seq)- prohibits discrimination on the basis of disability.
- [Age Discrimination Act of 1975 \(https://www.findlaw.com/civilrights/discrimination/age-discrimination-act-of-1975.html\)](https://www.findlaw.com/civilrights/discrimination/age-discrimination-act-of-1975.html) (42 U.S.C. § 6101 et seq) - prohibits age discrimination
- [NH Law Against Discrimination, RSA 354-A \(http://gencourt.state.nh.us/rsa/html/XXXI/354-A/354-A-1.htm\)](http://gencourt.state.nh.us/rsa/html/XXXI/354-A/354-A-1.htm)., prohibits discrimination in employment, housing, and places of public accommodation.
- [NH Civil Rights Act, RSA 354-B \(http://www.gencourt.state.nh.us/rsa/html/XXXI/354-B/354-B-mrg.htm\)](http://www.gencourt.state.nh.us/rsa/html/XXXI/354-B/354-B-mrg.htm) prohibits discrimination on the basis of race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability
- [NH Criminal Code section regarding hate crime sentencing, RSA 651:6 \(f\) \(http://www.gencourt.state.nh.us/rsa/html/lxii/651/651-6.htm\)](http://www.gencourt.state.nh.us/rsa/html/lxii/651/651-6.htm), provides extended imprisonment for crimes involving religion, race, creed, sexual orientation, national origin, sex, or gender identity