

# **S01.14 PROCEDURES FOR OPPOSITION TO SEXUAL AND GENDER-BASED MISCONDUCT AND INTERPERSONAL VIOLENCE POLICY**

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These Procedures are promulgated under Stonehill College Policy S01.14 OPPOSITION TO SEXUAL AND GENDER-BASED MISCONDUCT AND INTERPERSONAL VIOLENCE. They shall at all times be interpreted consistent with Title IX of the Higher Education Amendment of 1972 (“Title IX”), including its implementing regulations at 34 CFR 106, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) as amended by the Reauthorization of the Violence Against Women Act of 2013 (“VAWA”), which are collectively referred to as “the Laws.”

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## JURISDICTION

These Procedures pertain to acts of sexual/gender-based misconduct or interpersonal violence committed by any student, employee, or third party against another student, an employee, or a third party in the United States when the alleged harassment involves conduct that occurred within the College's own program or activity. Situations are fact-specific, and the College will look to factors such as whether the harassment occurred at a campus location or under circumstances where the College owned or exercised oversight, supervision, or discipline over the location or participants, or funded, sponsored, promoted, or endorsed the event or circumstance where the harassment occurred. When the conduct occurs outside the context of a College employment or education program or activity, but has continuing adverse effects on College property or other property owned or controlled by the College or in any College employment or education program or activity (including programs abroad), the College may investigate and take action consistent with those policies that pertain to Community Standards, personal conduct, and employee and student grievances.

Generally, a claim of misconduct or interpersonal violence that is not sexual/gender-based in nature but is related to a claim of sexual/gender-based misconduct or interpersonal violence will be investigated and decided under these procedures. The College retains the discretion to simultaneously investigate any conduct that is related to the sexual/gender-based misconduct in question using these Procedures or any other appropriate policies or procedures at the College. This may include, but is not limited to, any act of misconduct or interpersonal violence that is not sexual/gender-based in nature that is alleged to have been committed in the same time frame or by the same individuals being investigated under these Procedures.

## NOTICE OF NON-DISCRIMINATION & NOTICE OF COORDINATION WITH OPPOSITION TO SEXUAL HARASSMENT AND OTHER FORMS OF DISCRIMINATION

Stonehill College is committed to providing and promoting a learning and working environment that is free from sexual harassment and other forms of unlawful harassment and discrimination for everyone and does not discriminate on the basis of race, gender, disability, age, marital status, religion, color, sexual orientation, gender identity, national origin, genetics, veteran's status, or other legally protected status in any of its education or employment programs and activities. This policy prohibits specific forms of behavior that may violate Title IX; relevant provisions of the VAWA; Title VII of the Civil Rights Act of 1964 ("Title VII"); the Clery Act; and M.G.L. ch. 151B - Unlawful Discrimination Because of Race, Color, Religious Creed, National Origin, Ancestry or Sex.

The College recognizes that it is important to coordinate these Procedures with other existing policies and processes related to harassment and discrimination, knowing that harassment related to an individual's sex, sexual orientation, gender identity, or gender expression can occur in conjunction with misconduct and harassment related to a person's race, ethnicity, national origin, religion, age, pregnancy or parenting status, disability, or other protected status. Therefore, when a report is made of harassment or discrimination based on sex as well as harassment or discrimination based on some other protected status, the College's response will be governed by these Procedures. Questions about which policy or process applies in a specific instance should be directed to the Title IX Coordinator.

Employees should seek further information regarding equal opportunity, disability, harassment, discrimination, and retaliation that is not based on sex or gender with:

Lily Krentzman – Director of Human Resources/Title IX Coordinator  
320 Washington Street  
Easton, MA 02357  
508-565-1105  
[lkrentzman@stonehill.edu](mailto:lkrentzman@stonehill.edu)

## THE ROLE OF TITLE IX COORDINATOR, DEPUTIES & INVESTIGATORS

The College has designated a Title IX Coordinator who is responsible for the oversight of these Procedures. The Title IX Coordinator is responsible for overseeing and resolving all Title IX reports and identifying and addressing any patterns or systemic concerns that arise during the review of such reports. The Coordinator’s responsibilities include oversight of a prompt, fair, equitable investigation and resolution process for reports of violations of applicable College policies. The Title IX Coordinator also evaluates trends on campus based on information that has been reported and makes recommendations for campus-wide training and education programs, as well as other remedial actions, designed to prevent and/or eliminate sexual/gender-based misconduct and interpersonal violence, address its effects, and prevent its recurrence.

The Title IX Coordinator may designate Deputy Title IX Coordinators to fulfill any role or activity set forth in these Procedures. In this document, the term “Title IX Coordinator” also refers to the Title IX Deputy when functioning in the Coordinator role or functioning in any other role related to their duties and responsibilities under the Law.

Title IX Investigators conduct thorough and impartial investigations into the facts of a case including interviewing the complainant, respondent, witnesses, or others who may have relevant information, and collecting any other evidence deemed relevant to a case.

## TERMINOLOGY, DEFINITIONS, AND NOMENCLATURE USED WITHIN THESE PROCEDURES<sup>1</sup>

### Parties

Consistent with the nomenclature used within federal regulations, the Procedures will use the term “complainant” to refer to the person who is alleged to be the victim of conduct that could constitute sexual/gender-based misconduct or interpersonal violence. At times, when referring to a law enforcement process or in other circumstances, the complainant may also be referred to as a victim or the reporting party. The College may use these words interchangeably and no weight should be given to the word choice as an indication of the College’s opinion of, or position on, the allegations presented.

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<sup>1</sup> The definitions in the Procedures may differ from those used in the civil or criminal laws of the Commonwealth of Massachusetts. In some cases, the definitions include behaviors that, while not torts or crimes under Massachusetts law, still violate the College’s standards of conduct for faculty, staff, and students. In addition, certain conduct may be punishable under Massachusetts or federal criminal statutes, civil law, and College policy. These processes are separate and distinct from one another, however, but can run concurrently. The codification of Rape (generally) is located in Massachusetts Code MGL c.265, s.22 and may be accessed by visiting <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-subj/about/rape.html#RapeGenerally>. The offenses of domestic violence, harassment and stalking are codified in various statutes in the criminal code and may be accessed here: <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-subj/about/domviolence.html#MassachusettsLaw>. In absence of a College definition, the state definition will inform the College’s application of the Procedures.

Similarly, the College will use the word “respondent” to refer to the person who has been reported to be the perpetrator of conduct that could constitute sexual harassment or was complicit in the act(s) of sexual/gender-based misconduct or interpersonal violence.

### Sexual Harassment

Consistent with the requirements of federal regulations, Sexual Harassment actionable under Title IX means the following:

1. A College employee conditioning an educational benefit or service upon a person’s participation in unwelcome sexual conduct (often called quid pro quo harassment); or
2. Unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity; or
3. Sexual Assault as that crime is defined in the Clery Act regulations (34 CFR 668.46).

### Gender-Based Harassment

Acts of verbal, nonverbal, or physical aggression; intimidation; or hostility based on gender or gender-stereotyping constitute gender-based harassment. Gender-based harassment can occur if individuals are harassed either for exhibiting what is perceived as a stereotypical characteristic of their sex or for failing to conform to stereotypical notions of gender expression. In order to constitute harassment, the conduct must be such that it has the purpose or effect of unreasonably interfering with an individual’s academic performance or creating an intimidating, hostile, demeaning, or offensive living or learning environment. Sexual assault constitutes an extreme form of gender-based harassment. Based on the specific allegations, Gender-Based Harassment may also constitute Sexual Harassment. The College may determine that an allegation of Gender-Based harassment, while not actionable under Title IX, may still be actionable under other conduct and grievance policies and procedures maintained by the College.

### Dating Violence

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 shall be based on the complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Examples may include, but are not limited to: slapping, pulling hair, punching, damaging one’s property, driving recklessly to scare someone, harassment directed toward a current or former partner, threats of abuse such as threatening to hit, harm, or use a weapon on another (whether victim or acquaintance, friend, or family member of the victim), or other forms of verbal threats.

### Domestic Violence

A felony or misdemeanor crime 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 the jurisdiction in which the crime of violence occurred; 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 the jurisdiction in which the crime of violence occurred.

## Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition:

- "course of conduct" means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property;
- "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim; and
- "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking behaviors and activities may include, but are not limited to, the following:

- non-consensual communication including face-to-face communication, telephone calls, voice messages, text messages, email messages, and other forms of electronic communication, written letters, gifts, or any other communications that are undesired and/or place another person in fear
- use of online, electronic, or digital technologies including:
  - posting of pictures or information to social media
  - sending unwanted/unsolicited emails, voicemails, or chat requests
  - posting private or public messages on internet sites, social networking sites, and/or bulletin boards that are implicitly or explicitly directed to an individual
  - installing spy-ware on an individual's computer or other electronic device or using Global Positioning Systems (GPS) or other technology to monitor an individual
  - pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by an individual
  - surveillance and other types of observation, whether by physical proximity or electronic means
- trespassing on the property owned or being utilized by the complainant
- vandalizing the personal property of the complainant or an individual close to the complainant.
- non-consensual touching
- direct physical and/or verbal threats against an individual or their loved ones
- gathering information about an individual from family, friends, co-workers, and/or classmates
- manipulative and controlling behaviors, such as threats to harm oneself or threats to harm someone close to the individual
- defamation (lying to others about the individual, etc.)

## Sexual Misconduct

Stonehill College strictly prohibits sexual misconduct in all forms. Sexual misconduct includes the following:

- Non-Consensual Sexual Intercourse, which is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Non-Consensual Sexual Contact, which includes but is not limited to, the touching of the private parts of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- Sexual Exploitation, which occurs when a student takes advantage of another without their consent for their own advantage or benefit, to benefit or advantage anyone other than the one being exploited, or behavior that does not otherwise constitute one of the other offenses specifically noted in this Policy. Examples of sexual exploitation include, but are not limited to:
  - Sexual exhibitionism
  - Prostitution or the solicitation of a prostitute, escort or the solicitation of an escort
  - Non-consensual video, photographing, or audio-recording of sexual activity and/or distribution of these materials without the consent of all parties via mediums such as the internet or cellular technologies
  - Going beyond the boundaries of consent (e.g., allowing people to watch consensual sex without knowledge of the participants)
  - Peeping or other voyeurism, which is the act of observing a person involved in sexual contact/activity, sexual intercourse, or in a state of undress without their knowledge or consent.
  - Knowingly transmitting a Sexually Transmitted Infection (STI) to another individual
- The use of drugs or alcohol to render another person physically or psychologically incapacitated as a precursor to or part of sexual activity.
- Sexual Harassment, which includes, but is not limited to, unwelcome:
  - Sexual advances, whether or not they involve physical touching
  - Requests for sexual favors in exchange for actual or promised job or academic benefits, such as favorable reviews, salary increases, promotions, increased benefits or academic advantages (also known as quid pro quo harassment)
  - Lewd or sexually suggestive comments, including jokes, innuendos, or gestures,
  - Stripping and/or the solicitation of stripping
  - Displaying sexually suggestive objects, pictures, magazines, or cartoons
  - Commenting about or inappropriately touching an individual's body
  - Inquiries or discussion about an individual's sexual experiences or activities and other written or oral references to sexual conduct

For more information regarding sexual harassment, please see Policy E03.35 Opposition to Sexual Harassment and Other Forms of Discrimination. For more information regarding consensual employee-student relations, see Policy E03.47 Employee-Student Consensual Relations. College policy generally prohibits employees from engaging in romantic or sexual relations with students who are enrolled at the College, even if the relationship is consensual.

## Consent

A person who wishes to engage in sexual activity must ensure that they have the consent of their partner. Consent means informed, freely, and voluntarily given agreement, communicated by clearly understandable words or actions, to participate in each form of sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have demonstrated agreement between them to participate in the sexual activity. In the absence of mutually understandable words or actions, neither party should assume that it is permissible to engage in sexual activity.

Consent to some form(s) of sexual activity does not necessarily mean consent to other forms of sexual activity. Consent to sexual activity may be withdrawn at any time at which point all sexual activity for which consent has been withdrawn must cease. Acquiescence to sexual activity based on the use of fraud or force (actual or implied), whether that force be physical force, threats, coercion, is never consent.

Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual contact.

Coercion is verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to compel someone to engage in sexual contact.

Consent will not be assumed by silence, incapacitation due to alcohol or drugs, unconsciousness, sleep, physical impairment, or lack of active resistance. Consent may never be given by minors (for example, in Massachusetts, those not yet 16 years of age), mentally disabled persons, those who are unconscious, unaware or otherwise physically helpless, or those who are incapacitated as a result of alcohol or other drug consumption (voluntary or involuntary).

### *Incapacitation*

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or drugs. Incapacitation is a state in which an individual is unable to give consent because they lack the ability for self-care, i.e., the person lacks the capacity to understand the "who, what, when, where, why, or how" of the sexual interaction. The impact of alcohol and other drugs varies from person to person.

Individuals who initiate sexual activity must look for the common and obvious warning signs of incapacitation in their partner. Although every person may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"

A person who knows or should have reasonably known that another person is incapacitated may not engage in sexual activity with that person. In evaluating consent in cases of alleged incapacitation, the College asks two questions: (1) Did the person initiating sexual activity know that the other party was incapacitated? and (2) Should a sober, reasonable person in the same situation have known that the



other party was incapacitated? If the answer to either of these questions is “YES,” consent was absent, and the conduct is likely a violation of this Policy.

#### *Additional clarification regarding sexual misconduct*

While a person’s non-verbal actions can constitute consent, verbal communication between two people is the best way to ensure that each person knows the intentions of the other person.

Previous sexual relations or a current or past intimate/romantic relationship between two people is not the equivalent of consent to future sexual activity.

Use of alcohol or other drugs does not excuse a violation of this Policy.

Attempts to commit sexual misconduct and/or aiding the commission of sexual misconduct as an accomplice are also prohibited under this Policy.

#### *Examples of a lack of consent*

Examples of behavior that demonstrate a lack of consent and may constitute sexual assault include the following:

- engaging in sexual activity with an unconscious or semi-conscious person;
- engaging in sexual activity with someone who is asleep or passed out;
- engaging in sexual activity with someone who has said “no” or has indicated lack of consent through non-verbal communication;
- engaging in sexual activity with someone who is vomiting, unable to stand without assistance, or has to be carried to bed;
- allowing another person to engage in sexual activity with your partner without their consent;
- requiring any person to perform any sexual activity as a condition of acceptance into an organization;
- telling someone you will “out” them if they don’t engage in sexual activity (e.g., threatening to disclose the person’s sexual orientation without their consent); or
- purchasing or providing alcohol or drugs for the specific purpose of facilitating or assisting in a sexual assault.

#### *Complicity*

Complicity is any act taken with the purpose of aiding, facilitating, promoting, or encouraging the commission of any act listed above by another person or group of persons (such as a student organization).

### **OBTAINING PROTECTIVE AND SUPPORTIVE RESOURCES**

Stonehill College encourages individuals to report incidents of sexual/gender-based misconduct and interpersonal violence to the College or to law enforcement authorities. The College respects that it is the individual’s decision whether or not to report the incident and that an individual can change their mind at any time.

In certain circumstances where there may be an imminent threat of harm, the College may need to report an incident to law enforcement authorities even when a victim may not wish report.

Such circumstances include any incidents that warrant the undertaking of additional safety and security measures for the protection of the individual or the campus community. Additionally, in situations where the health and safety of the individual or campus community is at risk, it may be necessary to notify additional appropriate College officials.

#### Supportive Measures, Including Interim Measures

The Title IX Coordinator or Deputy may issue interim measures at any point before, during, and after an investigation has occurred. The Investigator may recommend such measures to the Title IX Coordinator or Deputy. These measures shall be designed to address both party's safety, well-being, and continued access to educational opportunities). Interim measures shall not be punitive in nature but may involve modifications to schedules and access to locations provided they do not limit opportunities for either party to effectively participate in educational opportunities. Interim measures are also designed to eliminate the sexual/gender-based misconduct and interpersonal violence, prevent its recurrence, and remedy its effects. These measures may include, but are not limited to, reasonable no-contact orders, changes in housing assignment for the respondent and/or complainant, academic accommodations, changes in supervisor or work location, modifications of access to campus housing or grounds, modifications of access to non-academic events, changes in parking locations, increased security, and/or emotional and other support.

In certain circumstances, emergency removal of a respondent from campus may be warranted. The Chief of Campus Police or their designee shall undertake an individualized safety and risk analysis and determine whether an immediate threat to the health or safety of students or employees justifies removal. The College shall provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. The respondent may challenge the removal by sending a written request to the Title IX Coordinator, who shall schedule a meeting with the respondent within two business days of the removal. The decision of the Title IX Coordinator shall be final.

Supportive measures are available to both parties regardless of whether a complainant pursues a complaint or investigation under this Policy. The College will maintain the privacy of any supportive and protective measures provided under this Policy to the extent practicable and will promptly address any violation of the protective measures. The Title IX Coordinator has the discretion to impose or modify any interim measure based on available information and is available to meet with a complainant or respondent to address any concerns about the provision of interim measures.

In some circumstances, a complainant may also wish to seek an order of protection from a court of appropriate jurisdiction against the respondent. College officials are available to assist individuals with this process. Individuals may also seek restriction of access to the College by non-students or non-employs when appropriate.

Stonehill College is committed to providing individuals with the necessary safety and support services and reasonable accommodations. Crisis intervention and safety concerns will take precedence. Due to the complex nature of the situation, the individual may need assistance in obtaining one or more of the following:

- No-contact order
- Services of a S.H.A.R.E. Advisor (see S.H.A.R.E. Advisor section below)
- Change in an academic schedule

- Alternative housing and/or office accommodations
- Limiting public access to directory information
- Resources for medical, psychological, legal, visa/immigration and financial support

For assistance in obtaining these safety accommodations, students may contact the Title IX Coordinator (Director of Human Resources) at 508-565-1105 or the Title IX Deputy (Director of Community Standards) at 508-565-1323.

If safety is an immediate concern, individuals should contact Campus Police at 508-565-5555, or dial 911 for assistance from local law enforcement.

### Other Supportive Resources

The College offers services to individuals who experience sexual/gender-based misconduct or interpersonal violence, even if they choose not to report the incidents, as well as to responding parties. Pastoral counselors, licensed professional counselors, and licensed medical professionals are confidential resources (see Confidentiality section) who are not obligated to notify the Title IX Coordinator of reports of sexual/gender-based misconduct or interpersonal violence. Other on-campus resources, such as those listed below, provide assistance in a safe, supportive, and private setting, but cannot keep reports of sexual/gender-based misconduct or interpersonal violence confidential.

Counselors and licensed medical professionals at a variety of departments/agencies both on and off campus can assist a person in deciding what steps to take, such as obtaining counseling, seeking medical attention, preserving evidence, and reporting to authorities.

Information, support, and advice are available for anyone who wishes to discuss issues related to sexual/gender-based misconduct or interpersonal violence.

### *On Campus Resources:*

- Campus Ministry – 508-565-1487
- Campus Police – 508-565-5555
- Counseling Services – 508-565-1331
- Health Services – 508-565-1307
- Human Resources – 508-565-1105
- Residence Life – 508-565-1290
- S.H.A.R.E. Advisors – a list of Advisors, with campus contact information, can be found at <https://www.stonehill.edu/offices-services/health-wellness/share-sexual-harassment-assault/share-advisors/>, after 4:30pm or over the weekend, contact Campus Police at 508-565-1000
- Student Affairs – 508-565-1363
- Title IX Coordinator/Deputies – refer to the reporting section of this Policy for a list of Coordinator/Deputies or contact the General Counsel’s office at 508-565-1404
- Intercultural Affairs (visa/immigration resource) – 508-565-1409
- Student Financial Assistance – 508-565-1088
- Academic Services & Advising – 508-565-1306

### *Off-Campus Agencies:*

- A New Day, Rape Crisis Center – 508-941-7400

- Signature Healthcare Brockton Hospital – 508-941-7000 (participates in the Sexual Assault Nurse Examiner Program, also called SANE)
- Easton Police Department – 911 for emergencies, 508-230-8632 for non-emergencies
- EAP -- New Directions Behavioral Health (formerly E4 Health) – Contact Information available in HR
- Brockton Police Department – 911 for emergencies, 508-941-0200 for non-emergencies
- Victim Rights Law Center – 617-339-6720 x19
- Massachusetts Bar Association Lawyer Referral Service – 866-627-7577
- Catholic Charities (legal/visa/immigration resource) – 508-587-0815
- Local counselors and clinicians- A comprehensive list of local providers is available at Counseling Services

### Medical Attention

There are multiple options, both on and off campus as noted above, for a victim seeking treatment for injuries, preventative treatment for sexually transmitted infections, and other health services. Victims of sexual/gender-based misconduct or interpersonal violence should consider seeking medical attention as soon as possible at the closest emergency room.

Victims who agree to have forensic evidence collection conducted as part of their care can locate hospitals with such emergency rooms in the Supportive Resources section of this document or by calling Campus Police, available 24 hours a day, at 508-565-1000 or 911.

Signature Healthcare Brockton Hospital, which employs SANE (Sexual Assault Nurse Examiner) nurses, has the ability to complete a sexual assault evidence kit to preserve evidence that could be helpful in proving that a crime occurred or could be helpful in obtaining an order of protection. Hospitals that do not have specially trained SANE nurses may also complete a sexual assault evidence kit.

In Massachusetts, a victim may request the collection of evidence even if the victim chooses not to make a report to law enforcement. If the victim chooses not to report to law enforcement, the Massachusetts Crime Lab will store the kit for six months while the victim determines whether or not to file a report, although extensions may be requested for victims who need more time to decide. A victim does not have to make a criminal complaint or decide whether to file criminal charges to have a sexual assault evidence kit collected; however, the complainant must use their legal name.

It is important that a victim of sexual assault not bathe, douche, brush teeth, smoke, change clothes, or clean the bed/linen/area where the victim was assaulted if the offense occurred within the past 120 hours, so that evidence may be preserved. Eating and drinking should also be avoided if possible. In addition, if clothes are changed, soiled clothes should be placed in a paper bag, as plastic may destroy crucial evidence.

In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers still can treat injuries and take steps to address concerns of pregnancy (if applicable) and/or sexually transmitted infections. Victims also are encouraged to preserve evidence including saving text messages, instant messages, social networking pages, other communications, as well as keeping pictures, logs, or other copies of documents if they have any that may be useful to College investigators or campus or local police.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. Victims who choose not to make a report regarding an incident should nevertheless consider speaking with Campus Police or local law enforcement to preserve evidence in the event that they change their mind at a later time.

#### S.H.A.R.E. Advisors for Cases of Sexual/Gender-Based Misconduct or Interpersonal Violence

S.H.A.R.E. Advisors are a group of trained staff and faculty members who provide support and resource information to sexual/gender-based misconduct or interpersonal violence reporting parties and responding parties. Students can access a list of S.H.A.R.E. Advisors, with campus contact information, at <https://www.stonehill.edu/offices-services/healthHh-wellness/share-sexual-harassment-assaul/share-advisors/>, after 4:30pm or over the weekend, contact Campus Police at 508-565-1000. It is important to note that S.H.A.R.E. Advisors must report sexual/gender-based misconduct or interpersonal violence to the College if the individual has not already done so. S.H.A.R.E Advisors always respect privacy but are not “confidential” resources.

S.H.A.R.E. Advisors are trained and available to assist complainants and/or respondents in a variety of ways, including:

- Assistance with accessing emergency rape crisis treatment and emergency medical services, including accompanying the individual to the hospital, working with police, etc.
- Support throughout the College Title IX process and/or the criminal justice process
- Assistance in coordinating academic concerns, such as missed classes, assignments, or change of class section
- Assistance in contacting community resources, such as rape crisis centers or support groups
- General support and assistance as needed

While S.H.A.R.E. Advisors are available to assist, it is always the choice of the complainant and respondent whether to utilize this support service. A S.H.A.R.E advisor is not the same as the party’s advisor of choice (“Advisor”), and a S.H.A.R.E. advisor cannot serve in such a capacity as part of the process. A party may have both a S.H.A.R.E. advisor and an Advisor.

#### PRIVACY AND CONFIDENTIALITY

The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under these Procedures. The College also is committed to providing assistance to help students, employees, and third parties make informed choices. With respect to any report under this Policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate conduct that violates this Policy, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings under these Procedures.

##### Privacy

Privacy means that information related to a report of violations of this Policy will be shared with a limited circle of College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College’s response to

reports of violations of this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

Further, the College will maintain as private any accommodations or protective measures provided to any individual to the extent that maintaining such confidentiality would not impair the College's ability to provide the accommodations or protective measures.

The privacy of student education records will also be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"). All documentation related to a student's report, investigation, and resolution are protected by FERPA and will not be released, except as required by law. Non-identifying information about a report may be shared with the Chief of Campus Police or designee to comply with the Clery Act (statistical information only). A complainant's name will never be published in connection with the College's obligations under the Clery Act.

In compliance with MGL, chapter 41 sec. 98F, the College does not publish identifiable information regarding victims of gender-based and interpersonal violence in the College's Daily Crime Log. The College also does not publish such information online. In addition, individuals may request that their directory information on file at the College be removed from public sources by contacting the Title IX Coordinator or the Office of the Registrar.

### Confidentiality

Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers, mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under Massachusetts law. The College has designated individuals who have the ability to have privileged communications as "Confidential Employees."

When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there appears to be a risk of immediate harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.

The following classifications of individuals are Confidential Employees under College policy. Please note, however, that if you disclose information that you wish to remain confidential to para-professional staff, such as administrative assistants, they may be required by law to pass along the report to Campus Police or a Title IX Coordinator.

Licensed Professional Counselors with the Commonwealth of Massachusetts whose official College responsibilities include providing mental health counseling to members of the campus community are not required by Title IX to report any information regarding an incident of sexual/gender-based misconduct or interpersonal violence to the Title IX Coordinator or other College officials.

- Licensed Medical Professionals who are registered with the Commonwealth of Massachusetts and whose official College responsibilities include providing health services to members of the campus community are not required by Title IX to report any information regarding an incident

of sexual/gender-based misconduct or interpersonal violence to the Title IX Coordinator or other College officials.

- Athletic Trainers with NATABOC certification and who are licensed by the Commonwealth of Massachusetts and whose official College responsibilities include the evaluation and treatment of student-athletes; determining the appropriate application of emergency procedures; and providing first aid as needed are not required by Title IX to report any information regarding an incident of sexual/gender-based misconduct or interpersonal violence to the Title IX Coordinator or other College officials.
- Pastoral Counselors who are ordained clergy and whose responsibilities include providing spiritual counseling to members of the campus community are not required by Title IX to report any information regarding an incident of sexual/gender-based misconduct or interpersonal violence to the Title IX Coordinator or other College officials.

In order to identify patterns or systemic issues related to violations of this policy, the College will collect non-identifying aggregate data from the College's LPCs, pastoral counselors, athletic trainers, and health care providers, as well as the local advocacy center. All personally identifiable information will remain confidential.

#### EMPLOYEE REPORTING RESPONSIBILITIES

Every faculty, staff, and volunteer on campus who works with students or minors, and every person identified as a Campus Security Authority (CSA) under the Clery Act must immediately report to the Title IX Coordinator any violations of this Policy reported to them or observed by them, including the name of the complainant and respondent, if known, and all known details. The only College members that are exempt from reporting violations of this Policy are licensed counselors, licensed medical professionals, pastoral counselors, and athletic trainers employed in such capacities (Confidential Employees). The College requires everyone in the campus community, including Confidential Employees, to report the suspected abuse of children (those under the age of 18).

Disclosures of violations of this Policy that are made at public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs," or other forums are not considered a report or notice to the College for purposes of triggering the College's obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about Title IX and Clery rights at these events. Similarly, information disclosed during a student's participation as a subject in an Institutional Review Board- approved human subjects research protocol ("IRB Research") not considered a report of a violation of this Policy or notice to the College of a violation of this Policy for purposes of triggering the College's obligation to investigate any particular incident(s). Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all student subjects of IRB Research.

#### OPTION TO NOT PARTICIPATE BY COMPLAINANT

Students, employees, and all members of the College's community have the right under federal law (Title IX) to expect that reports of sexual/gender- based misconduct or interpersonal violence will be taken seriously by the College. In accordance with federal law, the College investigates all reports of sexual/gender-based misconduct or interpersonal violence made to any College official. Any time the

College becomes aware of a possible case of sexual/gender-based misconduct or interpersonal violence, the College has an obligation to investigate.

Where the complainant requests that the College not pursue an investigation or when the complainant opts not to participate in the investigative process, the College must balance these factors with the College's responsibility to provide a safe and non-discriminatory environment for all College community members. The College, through the Title IX Coordinator, will take all reasonable steps to investigate and respond to the report, but its ability to do so may be limited by the request to not investigate or the decision to not participate in the process.

Under these circumstances, the complainant's request to not investigate will be balanced against the following factors:

- the seriousness of the conduct;
- the respective ages and roles of the complainant and respondent;
- whether there have been other reports of violations of this Policy involving the respondent;
- whether the circumstances suggest there is a risk of the respondent committing additional violations of this Policy;
- whether the respondent has a history of arrests or records indicating a history of violence;
- whether the report indicates the respondent threatened further sexual violence or other violence against the complainant and other individuals involved;
- whether the reported conduct was committed by multiple individuals;
- whether the circumstances suggest there is a risk of future violations of this Policy under similar circumstances;
- whether the reported conduct was perpetrated with a weapon;
- whether the College possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence); and,
- the respondent's right to receive information if such information is maintained in an "education record" under FERPA.

Where the College is unable to take action consistent with the decision by the complainant to not participate, the Title IX Coordinator will inform the complainant about the College's chosen course of action. In cases when the College determines the need to move forward with an investigation, the complainant will not be required to participate in the process. An alternative course of action may include steps to eliminate the effects of violations of this Policy and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant.

### TIMELY WARNING

Additionally, when the College, through a report to a College official, becomes aware of an ongoing threat to the health or safety of members of the campus community, College staff will issue a timely warning to the campus, pursuant with the Clery Act and consistent with Stonehill Policy F08.13. While the College will provide enough information to safeguard the campus community, a student's name or other personally identifying information will not be disclosed. With all reports that involve sexual or interpersonal violence, aggregate data will be provided to Campus Police so a statistic can be included in Stonehill's Annual Security Report in compliance with the Clery Act.



## REPORTING SEXUAL/GENDER-BASED MISCONDUCT OR INTERPERSONAL VIOLENCE

The College must have actual knowledge of allegations of sexual harassment allegations in order to respond to the allegations under Title IX. A person who experiences sexual/gender-based misconduct or interpersonal violence is encouraged to report the incident. Every complainant reporting to the Title IX Coordinator/Deputy or Campus Police will be provided with written information regarding their rights and available resources.

An investigation under this Policy will only commence when a Formal Complaint is issued. Pursuant to federal requirements, a Formal Complaint is a document signed by a complainant or by the Title IX Coordinator alleging sexual harassment/misconduct against a respondent about conduct within its education program or activity and requesting initiation of the recipient's grievance procedures. When the College has actual knowledge of reports by multiple complainants of conduct by the same respondent that could constitute sexual harassment, the Title IX Coordinator will automatically file a formal complaint.

### Reporting Options

#### *Report to the College*

Students can report sexual/gender-based misconduct or interpersonal violence to a College official with authority to take corrective action. For the purposes of this Policy, the College affirmatively states that the Vice President for Student Affairs, the Associate Vice President for Student Affairs/Dean of Students, the Director of Residence Life, any Campus Police Officer, the General Counsel and any associate or assistant general counsel, and any individual employed in the Human Resources or Community Standards office, are College officials with authority to take corrective action consistent with 34 CFR 106.44(e)(6), as well as the Title IX Coordinator, or a Title IX Deputy. The College Title IX Coordinator and Deputies are:

Lily Krentzman – Director of Human Resources/Title IX Coordinator  
320 Washington Street  
Easton, MA 02357  
508-565-1105  
[lkrentzman@stonehill.edu](mailto:lkrentzman@stonehill.edu)

Michael Labella – Director of Community Standards/Title IX Deputy  
320 Washington Street  
Easton, MA 02357  
508-565-1323  
[mabella@stonehill.edu](mailto:mabella@stonehill.edu)

Cindy MacDonald – Senior Associate Director of Athletics/Title IX Deputy  
320 Washington Street  
Easton, MA 02357  
508-565-1384  
[cmacdonald@stonehill.edu](mailto:cmacdonald@stonehill.edu)

When a report is made, the Title IX Coordinator or Deputy will assess the complaint to determine whether or not the complaint falls under the jurisdiction of this Policy. If so, it will be assigned for investigation. A Title IX Investigator or Investigators (depending on the complaint and/or as determined

by the Title IX Coordinator) will investigate the complaint by conducting preliminary interviews, providing the parties and the Hearing Officer with a summary of facts, and then examining the parties and witnesses at a live hearing. The parties' Advisors may also conduct examinations and cross-examinations at the hearing. The Hearing Officer will submit to the Associate Vice President for Student Affairs/Dean of Students<sup>2</sup> a written report containing factual findings, a determination of policy violation based on the preponderance of evidence standard, and any sanctions. The Associate Vice President for Student Affairs/Dean of Students will review the report, ensure that the findings and determinations are supported by the facts, and provide a copy of the Hearing Officer's report to the parties.

In the event of a possible criminal investigation, the complainant may also request that Campus Police attend their interviews.

#### *Report to Easton Police Department*

Students can contact the Easton Police Department at 508-230-3322 or by dialing 911 from a cell phone. If the alleged criminal behavior did not occur in Easton, students should contact local law enforcement in the appropriate jurisdiction. Campus Police can assist in contacting Easton Police or any other law enforcement agency.

#### *Report to both the College and the Easton Police Department*

See options 1 and 2.

#### *Make an Anonymous Report*

Students who wish to anonymously inform the College of sexual/gender-based misconduct or interpersonal violence may file an incident report online through the College's Sexual Assault and Title IX Resources web page. The information provided to the College in this manner will be used for Clery Act data collection and will be kept confidential. While the College will investigate anonymous reports in accordance with federal law, anonymous reports may significantly limit the College's ability to conduct an effective investigation.

#### *Take No Action*

Students have the right not to file a report, yet they are highly encouraged to seek medical attention and counseling. Students who wish to report at a later date may do so by utilizing any of the options above. However, please note that a delay in reporting could create obstacles to the College's process for stopping harassment/discrimination, remedying its effects, and preventing recurrence as well as potentially weakening evidence that could be useful in determining whether prohibited conduct occurred.

## THE INVESTIGATION AND DISCIPLINARY PROCESS

The College will take appropriate actions to ensure that investigations of sexual/gender-based misconduct or interpersonal violence complaints are completed in a prompt and equitable manner, with a dedication to impartial fact finding. Timeframes for the major stages of the formal investigation process are normally as follows:

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<sup>2</sup> If the Respondent is a College employee, all references to the Associate Vice President for Student Affairs/Dean of Students are replaced by the Director of Human Resources. Additionally, a Deputy Title IX Coordinator will serve as the Title IX Coordinator in those cases.

1. Upon approval by the Title IX Coordinator, the Deputy Title IX Coordinator will send a charge letter to the parties. The charge letter will include the following information:
  - a. a statement, as required under federal regulations, that there is a presumption that the respondent is not responsible for the alleged conduct until a determination is made;
  - b. a copy of the College's grievance procedures which may be included within the body of the letter or as an attachment or link to an electronic version of the procedures;
  - c. a clear statement of the allegations, including reference to specific sections of the College's policies which are alleged to have been violated, as well as the conduct that constitutes sexual harassment;
  - d. the identities of the parties alleged to be involved in the incident, if known;
  - e. the date and location of the alleged incident, if known;
  - f. notice that the parties may request to inspect and review evidence, including evidence the College does not intend to rely on in reaching a determination and the right to refer to and use such evidence during the investigation and hearing;
  - g. notice that informs the parties that knowingly making false statements or knowingly submitting false information during the grievance process is a violation of College policy;
  - h. notice that informs the parties that if the College decides later to investigate allegations not included in the notice provided, the College will provide notice of the new allegations;
  - i. notice that the standard of evidence and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests with the College and not with the parties;
  - j. notice that the parties shall have an equal opportunity to present witnesses and other evidence and to have a support person present; and
  - k. notice that the parties can mutually agree to engage in voluntary, informal resolution at any time prior to a determination being reached.
2. The Title IX Coordinator or Deputy will reach out to both parties to discuss formal and informal resolution options.
3. The Investigator will contact the parties after issuance of the charge letter to schedule initial meetings.
4. The Investigator shall provide all parties with all evidence in the Investigator's possession. The Investigator shall have an ongoing duty to supplement the provision of evidence to the parties as evidence is submitted and becomes available.
5. Prior to the hearing described below, the Investigator shall provide to the parties a written summary of the relevant facts and evidence uncovered during the initial meetings.
6. The General Counsel will designate a decision maker to oversee the hearing (the "Hearing Officer").
7. The Investigator will submit to the Hearing Officer the written summary of the relevant facts and evidence.
8. The Hearing Officer will schedule the hearing and set the approximate schedule of witness examinations. All such examinations shall for the sake of efficiency be scheduled on the least amount of days possible.
9. The parties may submit to the Hearing Officer requests that additional relevant witnesses or evidence be presented at the hearing. Any such requests shall be submitted in writing no later

than 3 business days before the start of the hearing. During the hearing, the parties will have the opportunity to offer clarifications regarding the written summary.

10. The Hearing Officer shall conduct a live hearing that occurs in “real-time” and allows for both parties to see and hear questioning of the parties and witnesses by the Investigator. The College will provide a virtual hearing if requested by either party. The Hearing Officer will ensure an equal opportunity for the parties to present witnesses, including fact and expert witnesses. An audio recording of the hearing will be made available for the parties’ inspection and review.
11. At the hearing (which can take place over several days, sessions, or other increment), the Investigator shall ask questions of the parties and witnesses called. During the hearing, the Hearing Officer may, at the request of a party or the Investigator, allow additional witnesses not previously identified to offer information that becomes known after the commencement of the hearing, becomes relevant as a result of information discovered at the hearing, or rebuts or supports information provided at the hearing. The parties and their Advisors may not participate or speak during the Investigator’s direct questioning of parties or witnesses. The parties may take notes, or, at their own expense, have a transcriber present, but are not allowed to audio or video tape the interviews on their own (as an audio recording will be provided by the College).
12. At the conclusion of the Investigator’s direct examination of a party or witness, either party may request an opportunity for direct and/or cross-examination of a party or witness (as the case may be), including witnesses not initially interviewed by the Investigator. The Hearing Officer shall be present as a decision maker during such examinations. The Investigator shall have the opportunity to cross-examine any witness or party. The Hearing Officer shall be the final arbitrator on the permissibility of any question asked. Parties may not conduct direct or cross examination themselves; all such examination must be conducted by their Advisor.
13. Consistent with the “Rape Shield Law” the Hearing Officer shall determine the permissibility of evidence or questions regarding sexual behavior under the following process: the Hearing Officer shall only allow questions or evidence of a victim’s sexual behavior in the following circumstances: (1) the evidence is offered to prove that someone other than the respondent was the source of the injury/harassment to the victim, (2) if the evidence is offered to provide consent of the victim to the actions alleged to have been conducted by the respondent, (3) if the probative value of the evidence outweighs the danger of harm to the victim, or (4) the victim has placed their sexual behavior or sexual predisposition into controversy and the respondent is introducing evidence to dispute the victim’s claims. If the respondent intends to offer such evidence, the respondent must provide notice to the Hearing Officer and the complainant’s Advisor at least 14 days before the scheduled direct or cross-examination and the Hearing Officer shall conduct a hearing with the Advisors for the parties to argue the matter and for the Hearing Officer to make a decision as to the permissibility of the evidence.
14. Subsequent to the hearing, the Hearing Officer will provide the parties with a report that summarizes the relevant facts and evidence. The Hearing Officer will offer to meet with the parties separately to give them the opportunity to suggest clarifications and request reconsideration of additional relevant witnesses and evidence proffered during the hearing. The parties may choose to provide their suggestions to the Hearing Officer via email. The Hearing Officer will consider all suggestions, but is under no obligation to adopt them.

15. If a party or witness did not submit to cross-examination at the live hearing, the Hearing Officer may not rely on any statement of that party or witness in reaching a determination regarding responsibility. Additionally, the Hearing Officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
16. The Hearing Officer will submit to the Associate Vice President for Student Affairs/Dean of Students a report that contains, at a minimum, the following:
  - a. Identification of the section(s) of the College's Community Standards and/or other policies alleged to have been violated, if any;
  - b. A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding the application of the College's policy to the facts of the conduct allegedly constituting Title IX sexual harassment;
  - e. A determination regarding responsibility using the appropriate standard of evidence as to each allegation and/or any lesser offense (for example, if a complainant alleges that the respondent committed sexual assault, the Hearing Officer could conclude that the respondent is not responsible for sexual assault but is responsible for sexual harassment), and the rationale for each determination;
  - f. Any disciplinary sanctions the College imposes on the respondent and any remedies provided to the complainant;
  - g. Any remediation efforts designed to restore or preserve access to the College's education program or activity; and
  - h. A statement explaining the College's appeal procedures and permissible bases for the complainant and respondent to appeal.
17. The Associate Vice President for Student Affairs/Dean of Students will review the Hearing Officer's report to ensure that the findings and determinations are supported by the facts. The Associate Vice President for Student Affairs/Dean of Students will then issue to the parties a Final Report and offer to meet with each of the parties separately.
18. The College will disclose, in writing, the final results of any institutional adjudication conducted to the respondent, as well as to the complainant (or if the individual is deceased as a result of such crime or offense, to the next of kin) of any violent crime or non-forcible sex offense. Additionally, the results of the initial outcome and the appeal outcome (if an appeal is sought) will be provided in writing and simultaneously to both the complainant and respondent in every complaint of sexual assault, dating violence, domestic violence, or stalking. The notice of outcome will include the outcome, the reason for the outcome, and the sanction associated with the outcome.

#### Due Process Affirmation

Consistent with the requirements of the Law, the College affirms that:

- there is a presumption of innocence for the respondent throughout the grievance process;
- the College will objectively evaluate all relevant evidence including inculpatory and exculpatory evidence;

- all Title IX Coordinators, investigators and decision-makers will not have conflicts of interest or bias for or against complainants or respondents
- no party will be denied due process protections;
- nothing under these Procedures or the Law diminishes rights available to any individual under Title VII, which prohibits sex discrimination in an employment context;
- the obligation to comply with Title IX is not obviated or alleviated by any state or local law; and
- all records of proceedings shall be maintained for seven years.

### Statement of Rights

It is the goal of Stonehill College to ensure that individuals have access to needed resources, services, and information. The College assures all those involved in incidents of sexual/gender-based misconduct or interpersonal violence will:

1. Be notified of available spiritual and personal counseling, mental health, medical, or other student resources, both on campus and in the community, as appropriate.
2. Receive notification of options for and available assistance in changing academic and living situations after an alleged incident of sexual/gender-based misconduct or interpersonal violence, if so requested and if such changes are reasonably available (no charges or investigation, campus or criminal, need to occur before this option is available).
3. Have the opportunity to challenge and request the removal of any college official from participation in the process based on bias or prejudice.
4. Have the matter investigated in a prompt manner by appropriately trained investigators.
5. Have the matter handled in accordance with College policy.
6. Be offered a S.H.A.R.E. Advisor to be present at any time during the investigation.
7. Be accompanied by an Advisor of choice, who may be an attorney, to any meeting or disciplinary proceeding in which the complainant or respondent is required to be present. Individuals who are witnesses to the incident or are otherwise involved in the matter cannot serve as Advisors. An Advisor may not directly address the Title IX Investigators or otherwise participate actively in the investigation except during cross-examination. The College will not unreasonably delay the investigation or determination of the outcome based on the availability of an Advisor.
8. Be allowed to submit potential witness names for consideration and be informed of all witnesses being interviewed by an investigator and be present during such interviews.
9. Be allowed to submit questions for the Investigator to ask during the investigation or to engage in cross-examination. Cross-examination will be allowed as follows:
  - During a live hearing conducted with all parties in the same room or connected via closed circuit television or similar technology;
  - Cross-examination must be conducted by an Advisor present at the hearing. If the party does not have their own Advisor, the College shall provide the party an Advisor aligned with that party to conduct cross-examination;
  - Each party shall be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including that challenging credibility.
  - The rape shield protections found in Federal Rules of Evidence, Rule 412, which is intended to safeguard complainants against invasion of privacy, potential embarrassment, and stereotyping apply.

- Cross-examination shall be attended by the Hearing Officer who shall make determinations on the permissibility of all questions. If a question is excluded, the Hearing Officer must explain to the party's Advisor any decision to exclude a question. If a party or witness refuses to submit to cross-examination, as required by federal regulations, all such statements given by such person shall be discounted and shall not become part of the record of the hearing or investigation.
10. Be allowed to review and respond to pertinent evidence received.
  11. Be allowed to review and respond to the investigative report before it is submitted to the Associate Vice President for Student Affairs/Dean of Students.
  12. Not have irrelevant prior sexual history admitted into the investigation.
  13. Be notified in writing within 10 business days of the formal decision of the Associate Vice President for Student Affairs/Dean of Students.
  14. Be allowed to appeal the decision in accordance with the standards for appeal.
  15. Be free from any behavior that may be construed by the College to be intimidating, harassing, or retaliatory and have the College respond promptly to any such report to stop it and appropriately discipline any party who engaged in retaliatory conduct.

#### *Rights Specific to a Complainant*

The College assures that all students making a complaint of sexual/gender-based misconduct or interpersonal violence will have the option of choosing to whom the complaint is made (the College, local law enforcement, or both). The complainant can also choose not to participate in an investigation; however, the College will investigate any report it deems necessary to protect the safety of the College community or in compliance with applicable law.

#### *Rights Specific to a Respondent*

The College assures that all students accused of an incident of sexual/gender-based misconduct or interpersonal violence will be notified of a report of sexual/gender-based misconduct or interpersonal violence in accordance with College policy. Such notice will include sufficient details and allow for sufficient time to allow the respondent to prepare a response before any initial interview.

### ALTERNATIVE RESOLUTION PROCESS

Where appropriate, the College, upon the recommendation by the Title IX Coordinator, may attempt to resolve allegations of violations of the Policy by taking immediate and corrective action to stop the conduct, address its effects, and prevent recurrence without a formal investigation and determination that a violation of the Policy has occurred. The alternative resolution process may include mediation, restorative justice, or other models of informal resolution. The particular form of the alternative resolution process will be discussed with the parties to determine the best way to proceed.

Participation in the alternative resolution process is voluntary and either party can request to end the alternative resolution process at any time and request a formal investigation. Both parties must provide written consent to participate in an alternative resolution process. In some instances, and at any time, the College, on its own, may determine that alternative resolution process is not appropriate, in which case, the College will notify the parties that it is ending the alternative resolution process and initiating a formal investigation. The alternative resolution process will conclude with both parties consenting in writing to an agreed-upon outcome, which is final and not subject to appeal.

## RETALIATION

The College encourages students to report all incidents of sexual/gender-based misconduct or interpersonal violence. Any threat of retaliation against a complainant, respondent, or witness, or other attempts to prevent the reporting of an incident of sexual/gender-based misconduct or interpersonal violence or cooperation with the investigation is itself prohibited and will result in a subsequent and separate investigation. Retaliation includes, but is not limited to, intimidation, threats, coercion, and any adverse action. Adverse action includes, but is not limited to, hiring, firing, promotions, demotions, compensation, benefits, grading, pressure to withdraw from a class or student organization, ignoring, and refusing requests for assistance. The exercise of rights protected under the First Amendment do not constitute retaliation

## AMNESTY

Individuals may be hesitant to report the occurrence of sexual/gender-based misconduct or interpersonal violence to the College because they are concerned that they themselves, or witnesses to the misconduct, may be charged with violations of the alcohol and other drug policy. While these behaviors are not condoned by the College, the need to address instances of alleged sexual/gender-based misconduct or interpersonal violence will take precedent.

Accordingly, in these cases, the College will not pursue disciplinary action against a student who reports, in good faith, to be the victim of, or witness to, sexual/gender-based misconduct or interpersonal violence.

## APPEALS

A respondent or complainant may submit a request for an appeal of a decision resulting from a Title IX investigation no later than five business days after receiving the decision in writing. The request for an appeal is to be submitted in writing to the Vice President for Student Affairs, who will consider the request. Appeals will be considered based on the following criteria:

1. Failure to follow the process or procedures outlined within this Policy, which resulted in significant prejudice such that it impacted the outcome. Minor deviations from designated procedures will not be the basis for sustaining an appeal unless significant prejudice results which affected the outcome.
2. New information that was not known to the parties at the time of the investigation.
3. The Title IX coordinator, Investigator, Hearing Officer, or decision-maker has a bias or conflict of interest.

Appellate decisions are final.

### Appeals Process

Once an appeal is received, the other party will be notified and provided with an opportunity to review the submitted appeal and submit a written response within three (3) business days. Deadlines may be extended at the discretion of the Vice President for Student Affairs (VPSA) under exceptional circumstances. A deadline extension request must be submitted in writing. Upon receipt of all documents, the (VPSA) will conduct a review of the file limited to the grounds identified on appeal. On appeal, the burden is on the appellant to prove that the appeal has merit. Appellate reviews are reviews of the record only and are not a new investigation of the matter. There are no additional meetings with



the involved parties unless the VPSA wishes to seek clarification about a parties' written appeal or written response to an appeal.

The VPSA will strive to review and respond within 10 business days. The parties will be notified in writing if the process will take longer. The VPSA will provide a written statement which states one of the following appeal determinations:

1. The appeal does not meet one of the appeal criteria and is dismissed.
2. The appeal meets the appeal criteria and the case is remanded back to the Hearing Officer and Associate Vice President for Student Affairs/Dean of Students for reconsideration.
3. The appeal meets the appeal criteria and the investigation is reopened and assigned to a new investigator with specific corrective action instructions.

## EDUCATION AND PREVENTION

The College is committed to annually providing intentional and comprehensive primary and ongoing education and awareness programs, initiatives, strategies, and campaigns aimed at the eradication of sexual/gender-based misconduct and interpersonal violence, including dating violence, domestic violence, stalking, and sexual assault. The College will work to ensure that all programs are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome. The College will also consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels. The programs shall include both primary prevention and awareness programs directed at incoming students and ongoing prevention and awareness campaigns directed at current students.

Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

In addition, the College will evaluate on an ongoing basis, all policies and procedures related to sexual/gender-based misconduct or interpersonal violence.

## RELATED MASSACHUSETTS LEGAL DEFINITIONS

Sexual/gender-based misconduct and interpersonal violence cases are governed in accordance with this Policy and not by Massachusetts state law. However, students who believe they have been the victim of a crime may choose to pursue a criminal investigation through law enforcement in addition to the adjudication of the case by the College.

In those instances, Massachusetts law applies. Below are the definitions of Massachusetts crimes related to sexual/gender-based misconduct and interpersonal violence.

Domestic Violence: Massachusetts General Law chapter 209A, section 1 defines domestic abuse as “the occurrence of one or more of the following acts between family or household members:

(a) attempting to cause or causing physical harm; (b) placing another in fear of imminent serious physical harm; (c) causing another to engage involuntarily in sexual relations by force, threat or duress.”  
<http://www.malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A>

Dating Violence: Massachusetts does not have a law pertaining to violence that occurs between people in a dating relationship. Instead, Massachusetts General Law chapter 265, section 13A would apply: “an assault or an assault and battery: (i) upon another and [the perpetrator] by such assault and battery causes serious bodily injury; (ii) upon another who is pregnant at the time of such assault and battery, [the perpetrator] knowing or having reason to know that the person is pregnant; or (iii) upon another who [the perpetrator] knows has an outstanding temporary or permanent vacate, restraining or no-contact order or judgment issued pursuant to [applicable law], in effect against him at the time of such assault or assault and battery.”

<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section13a>.

Sexual Assault: Massachusetts defines rape as (1) the penetration of any orifice by any body part or object (2) by force and (3) without consent. Rape also includes instances where the victim is incapacitated (“wholly insensible so as to be incapable of consenting”) and the perpetrator is aware of the incapacitation.

<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section22>;

<http://masscases.com/cases/sjc/450/450mass583.html>.

Consent: The voluntary agreement, demonstrated by words or actions, by a person with sufficient mental capacity to make a conscious choice to do something proposed by another, free of duress. Commonwealth v. Lopez, 433 Mass. 722 (2001), Commonwealth v. Lefkowitz, 20 Mass. App. Ct. 513 (1985); see also: <http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section22>.

Stalking: Massachusetts General Law chapter 265, section 43 defines “Stalking” as “(1) willfully and maliciously engag[ing] in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) mak[ing] a threat with the intent to place the person in imminent fear of death or bodily injury.”

<https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section43>.

## TRAINING

All Title IX coordinators, investigators, decision-makers, and those involved in any informal resolution process shall receive annual training which includes:

- The definition of sexual harassment for Title IX purposes;
- The scope of the College’s education “program or activity” under Title IX;
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution process, as applicable;
- How to serve impartially including avoiding prejudgment of facts at issue, conflicts of interest, and bias;
- Technology to be used at a live hearing;

- Issues of relevance of questions and evidence, including rape-shield limitations; and
- Issues of relevance to create an investigative report that fairly summarizes relevant evidence.

All training materials must be posted on the institution's website.

### COMPLIANCE QUESTIONS

Questions or complaints about the College's compliance with Title IX may also be addressed to the U.S. Department of Education, Office for Civil Rights, 5 Post Office Square, Boston, MA 02109. Telephone: 617-289-0111.