



## SEXUAL HARASSMENT AND MISCONDUCT POLICY FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD-PARTIES

### 1. Glossary

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and who may conduct cross-examination for the party at the hearing, if any.
- *Appeal Decision-maker* means the person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or misconduct; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or misconduct; or retaliation for engaging in a protected activity against a Respondent and requesting that the University investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, misconduct, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when the University of New Haven is in normal operation.
- *Decision-maker* means the person or panel who hears evidence, determines relevance, and makes the Final Determination of whether this Policy has been violated and/or assigns sanctions.
- *Directly Related Evidence* is evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- *Education program or activity* means locations, events, or circumstances where the University of New Haven exercises substantial control over both the Respondent and the context in which the sexual harassment or misconduct occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University of New Haven.
- *Final Determination*: A conclusion by preponderance of the evidence that the alleged conduct did or did not violate Policy.
- *Finding*: A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged (as in a "finding of fact").
- *Formal Grievance Process* means a method of formal resolution designated by the University to address conduct that falls within the Policy included below, and which complies with the requirements of the Title IX regulations (specifically, 34 CFR §106.45).
- *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Panel* refers to those who have decision-making and sanctioning authority within the University's Formal Grievance process.
- *Informal Resolution* means a complaint resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a formal Final Determination being reached.

- *Investigator* means the person or persons charged by the University of New Haven with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter* means an employee of the University who is obligated by policy to share knowledge, notice, and/or reports of harassment, misconduct, and/or retaliation with the Title IX Coordinator [and/or their supervisor].<sup>1</sup>
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassment, misconduct, and/or retaliation.
- *Official with Authority (OWA)* means an employee of the University of New Haven explicitly vested with the responsibility to implement corrective measures for harassment, misconduct, and/or retaliation on behalf of the Recipient.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Recipient* means the University of New Haven.
- *Relevant Evidence* is evidence that tends to prove or disprove an issue in the complaint.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.
- *Respondent* means an individual who is alleged to be the perpetrator of conduct that could constitute sexual harassment or misconduct; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the University on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence. [See Section 15.a.](#), for greater detail and further definitions of each offense.
- *Title IX Coordinator* is at least one official designated by the University of New Haven to ensure compliance with Title IX. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, Deputy Title IX Coordinators, and any member of the Grievance Process Pool.

## **2. Rationale for Policy**

The University of New Haven (the "University") is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of its educational programs and activities, the University has developed internal policies and procedures that provide a prompt, fair, and

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<sup>1</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

impartial process for addressing allegations of sexual harassment and/or misconduct, and for allegations of retaliation. The University of New Haven values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

### **3. Applicable Scope**

The core purpose of this policy is the prohibition of all forms of sex-based discrimination, harassment, and retaliation, including sexual harassment and/or sexual misconduct.

When the Respondent is a member of the University community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

### **4. Title IX Coordinator**

The Vice President for Institutional Equity & Diversity, Barbara Lawrence, serves as the Title IX Coordinator and oversees implementation of the University's policy on sexual harassment and misconduct. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and/or misconduct, and retaliation prohibited under this policy. All parties will be provided with a comprehensive [electronic] brochure detailing options and resources, which the Title IX Coordinator, or designee, may also review with the parties in person.

### **5. Independence and Conflict-of-Interest**

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University's Associate Vice President for Human Resources & Organizational Development, Jennifer Cinque, by phone at (203) 932.7040 or by email at [jcinque@newhaven.edu](mailto:jcinque@newhaven.edu). Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the University's Associate Vice President for Human Resources & Organizational Development, Jennifer Cinque, by phone at (203) 932.7040 or by email at [jcinque@newhaven.edu](mailto:jcinque@newhaven.edu). Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

### **6. Administrative Contact Information**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Barbara Lawrence, Title IX Coordinator  
Maxcy Hall, Room 226C  
300 Boston Post Rd, West Haven, CT 06516  
(203) 932.7269  
Email: [blawrence@newhaven.edu](mailto:blawrence@newhaven.edu)  
Web: [www.newhaven.edu/titleix](http://www.newhaven.edu/titleix)

Complaints, notice of alleged policy violations, or inquiries or concerns regarding this policy may also be made to Deputy Title IX Coordinators, who have been trained to address Title IX concerns:

Sara Richwine  
Associate Director of Athletics  
Compliance & Student Athlete Services  
Charger Recreation Gym  
300 Boston Post Rd  
West Haven, CT 06516  
(203) 932.7026  
Email: [srichwine@newhaven.edu](mailto:srichwine@newhaven.edu)

Ophelie Rowe-Allen  
Vice President of Student Affairs  
Dean of Students  
Bartels Student Hall  
300 Boston Post Road  
West Haven, CT 06516  
(203) 932.7176  
Email: [orallen@newhaven.edu](mailto:orallen@newhaven.edu)

In addition to the specifically designated Title IX Team Members listed above, the University of New Haven has determined that the following administrators are Officials with Authority to address and correct sexual harassment, misconduct, and/or retaliation.

Sheahon Zenger  
Interim University President  
Email: [szenger@newhaven.edu](mailto:szenger@newhaven.edu)

George S. Synodi  
Vice President for Finance & Administration  
Email: [gsynodi@newhaven.edu](mailto:gsynodi@newhaven.edu)

Gregory Eichhorn  
Vice President for Enrollment & Student Success.  
Email: [geichhorn@newhaven.edu](mailto:geichhorn@newhaven.edu)

Jonathan Mays  
Director of Athletics & Recreation  
Email: [jmays@newhaven.edu](mailto:jmays@newhaven.edu)

Nancy O. Savage  
Interim Provost  
Email: [nsavage@newhaven.edu](mailto:nsavage@newhaven.edu)

Jennifer Cinque  
Associate Vice President, HR & Org. Development  
Email: [jcinque@newhaven.edu](mailto:jcinque@newhaven.edu)

Brian Otis  
Vice President for University Advancement  
Email: [botis@newhaven.edu](mailto:botis@newhaven.edu)

The University of New Haven has also classified all employees, with the exception of those specifically designated as confidential resources, as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries regarding discrimination, retaliation, or harassment may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Office for Civil Rights (OCR)  
Boston Office  
U.S. Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02109-3921  
Customer Service Hotline #: (617) 289-0111  
Facsimile: (617) 289-0150  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

Connecticut Commission on Human Rights and  
Opportunities (CHRO)  
450 Columbus Boulevard  
Hartford, CT 06103-1835  
Phone: 860-541-3400  
Connecticut Toll Free: 1-800-477-5737  
TDD: 860-541-3400

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001  
Customer Service Hotline #: (202) 514-4609  
TDD#: (202) 514-0716  
  
National Institutes of Health (NIH)  
9000 Rockville Pike  
Bethesda, Maryland 20892  
301-496-4000  
TTY 301-402-9612  
Email: [GranteeHarassment@od.nih.gov](mailto:GranteeHarassment@od.nih.gov)

For employees' complaints of discrimination, retaliation, or harassment:

Equal Employment Opportunity Commission (EEOC)  
Boston Office  
JFK Federal Building  
15 New Sudbury Street  
Room 475  
Boston, MA 02203-0506

Customer Service Hotline #: (800) 669.4000  
Facsimile: (617) 565-3196  
TDD#: (800) 669-6820  
Web: <http://www.eeoc.gov/>

**7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

Notice, including complaints, of sexual harassment, misconduct, and/or retaliation may be made using any of the following options:

- 1) File a Formal Complaint with, or give verbal notice to, the Title IX Coordinator, Barbara Lawrence, or deputies at the contact information above. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
- 2) Report online, using the reporting forms posted at [www.newhaven.edu/reportit/](http://www.newhaven.edu/reportit/).
- 3) Report via the [LiveSafe application](#) to the University Police Department. LiveSafe users can send in reports using the anonymous feature if they are not comfortable with disclosing their identity. University of New Haven Police will not be able to see who the report is coming from if this is activated. Complainants should be aware, however, that anonymous reporting may inhibit the University's ability to offer supportive measures. Information provided anonymously will be used in compliance with the Clery Act for data collection. LiveSafe is a free mobile safety app made available by University of New Haven Public Safety. Download the LiveSafe mobile app in [iTunes](#) or the [Google Play](#) store. Once downloaded, the user should select "University of New Haven" as the school/agency and fill out their user profile.

As used in this Policy, the term "Formal Complaint" means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the University of New Haven investigate the allegation(s). As used in this paragraph, the phrase "document filed by a

Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University investigate the allegations. If a notice or complaint is submitted in a form that does not meet this standard, the Title IX Coordinator, or designee, will contact the Complainant to ensure that it is filed correctly. The filing of a formal complaint triggers the formal grievance process described below.

## **8. Supportive Measures**

The University of New Haven will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment, misconduct, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties, to restore or preserve access to the University’s education program or activity, including measures designed to protect the safety of all parties or the University’s educational environment, and/or deter sexual harassment, misconduct, and/or retaliation.

The Title IX Coordinator will promptly make supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a formal complaint with the University either at that time or in the future, if they have not done so already.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University’s ability to provide the supportive measures. The University of New Haven will act to ensure as minimal an academic/occupational impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party.

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services;
- Referral to the Employee Assistance Program;
- Referral to community-based service providers;
- Visa and immigration assistance;
- Student financial aid counseling;
- Education to the institutional community or community subgroup(s);
- Altering campus housing assignment(s);
- Altering work arrangements for employees or student-employees;
- Safety planning;
- Providing campus safety escorts;
- Providing transportation accommodations;
- Implementing contact limitations (no contact orders) between the parties;
- Academic support, extensions of deadlines, or other course/program-related adjustments;
- Implementing Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders;
- Timely warnings;
- Class schedule modifications, withdrawals, or leaves of absence;
- Increased security and monitoring of certain areas of the campus; and/or,
- Any other actions deemed appropriate by the Title IX Coordinator.

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement. Orders of protection, no contact orders, restrictive or similar orders issued by a criminal, civil, or tribal court will be administered by the University as written.

Refer to [Appendix D: Resources & Support Services](#) for contact information of available local, statewide, and national resources.

## **9. Emergency Removal**

The University can act to remove a student Respondent partially or entirely from its education programs or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Intervention Team [also known as BIT, etc.] using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the opportunity to challenge the removal by meeting with the Title IX Coordinator, or their designee, as soon as reasonably possible following removal to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When requested, this meeting will be scheduled without delay and as soon as possible. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it equitable to do so.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator, or designee, for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The University of New Haven will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions may include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim actions are applicable. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX.

There is no appeal process for emergency removal decisions.

## **10. Promptness**

Upon receiving notice of a formal complaint, the University of New Haven will act promptly upon all allegations of sexual harassment. Absent extenuating circumstances, complaints will typically be resolved within 120 days. The University will avoid all undue delays within its control. In the event of unavoidable delay, the University will provide written notice of the delay, the cause of the delay, and an estimate of the additional time required as a result of the delay.

## **11. Privacy**

Every effort is made by the University to preserve the privacy of reports.<sup>2</sup> The University of New Haven will not share the identity of any individual who has made a report or complaint of sexual harassment, misconduct, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g); FERPA regulations (34 CFR part 99); or as required by law; or to carry out the purposes of Title IX, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures. In compliance with its obligations under Title IX, if the Complainant files a formal complaint or the University otherwise initiates the formal grievance process, the University will disclose the name of the Complainant and substance of the allegations to the Respondent.

Disclosure determinations will be made on a case-by-case basis. The University of New Haven reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Typically, only a small group of officials who the University has determined “need to know”, in other words, has a legitimate educational interest, will be informed of the complaint, report, or notice, including but not limited to: Division of Student Affairs, the Office of Human Resources, and the Behavioral Intervention Team (BIT). Information will be shared as necessary with Investigators, Decision-Makers, Hearing Panel members, witnesses, and the parties. To the extent possible, the University will attempt to limit the number of people to whom it discloses information about the alleged incident to preserve the parties’ rights and privacy.

The University of New Haven’s primary relationship is with the student and not their parent(s). The University may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically in [Section 17.a.](#)

## **12. Jurisdiction of the University of New Haven**

This policy applies to the educational programs and activities of the University of New Haven, to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored

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<sup>2</sup> For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of University 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 Recipient’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the Recipient’s FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The University of New Haven has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page 26. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource 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 is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

events, or in buildings owned or controlled by the University's recognized student organizations. The Respondent must be a member of University community in order for its policies to apply.

This policy is also applicable to off-campus or online misconduct that occurs in the University's education program or activity that effectively deprives a person of access to University's education program or activities. While not subject to Title IX, off-campus misconduct that occurs outside of a University education program or activity may nevertheless be subject to discipline under this policy or under the Code of Conduct. Irrespective of the applicability of Title IX, the University retains the right to impose discipline for conduct that the University determines affect a substantial University interest. Substantial University interests include:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is substantially interferes with the educational interests or mission of the University of New Haven.

Regardless of where the conduct occurred, the University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator, or their designee, will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or the confidential reporting options listed more specifically in [Section 17.a](#).

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University of New Haven property and/or events.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University of New Haven where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

### **13. Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for

future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate, provided however that the University will investigate formal complaints to the extent that it has the jurisdiction to do so.

When notice/complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the alleged misconduct, but the procedures in place at the time of notice/complaint.

#### **14. Online Harassment and Misconduct**

The policies of the University of New Haven are written and interpreted broadly to include online manifestations of any of the behaviors prohibited herein, when those behaviors occur in or have an effect on the University's education program and activities or use University networks, technology, or equipment.

Although the University may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to University, it will engage in a variety of means to address and mitigate the effects, and will initiate the Sexual Harassment grievance process if the Complainant files a formal complaint and the harassment involves a University educational program or activity.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content on social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the University of New Haven community.

#### **15. Policy on Sexual Harassment & Misconduct**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free from discrimination and discriminatory harassment. The University is a community committed to providing an environment that promotes excellence, responsibility, respect, understanding, integrity, and service. The University adheres to the philosophy that all community members should enjoy an environment free from sexual misconduct of any kind.

The sections below describe the specific forms of legally prohibited harassment.

##### **a. Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Connecticut regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful, discriminatory practice.

The section below describes the specific forms of legally prohibited harassment that are also prohibited under the University's Policy. All offense definitions encompass actual and/or attempted offenses.

The University of New Haven has adopted the following definitions of sexual harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

**Title VII/FHA Sexual Harassment** applies to situations where an employee is subjected to workplace sexual harassment or where a situation involves a residential Complainant in University-provided housing.

- a. Unwelcome verbal, written, graphic, and/or physical conduct;
- b. that is severe or pervasive and objectively offensive;
- c. on the basis of sex/gender, that
- d. unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

**Sexual Harassment**, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual harassment includes:

Conduct on the basis of sex<sup>3</sup>, or that is sexual in nature, that satisfies one or more of the following:

- 1) Quid Pro Quo:
  - a. an employee of the University,
  - b. conditions<sup>4</sup> the provision of an aid, benefit, or service of the University,
  - c. on an individual's participation in unwelcome sexual conduct.
  
- 2) Severe and Pervasive Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,
  - f. that it effectively denies a person equal access to the University's education program or activity.<sup>5</sup>
  
- 3) Sexual assault, defined as:
  - a) Any sexual act directed against a Complainant<sup>6</sup>,
    - i) without their consent, or,
    - ii) instances in which the Complainant is incapable of giving consent.
  - b) A 'sexual act' is specifically defined by federal regulations to include one or more of the following:
    - i) Rape:
      - 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 their consent,
      - including instances in which the Complainant is incapable of giving consent because of age<sup>7</sup> or because of temporary or permanent mental or physical incapacity.
    - ii) Sodomy:
      - Oral or anal sexual intercourse with a Complainant,
      - forcibly, and/or against their will (non-consensually), or
      - not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

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<sup>3</sup> Including gender identity, gender expression, sexual orientation, and sex stereotypes.

<sup>4</sup> Implicitly or explicitly.

<sup>5</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

<sup>6</sup> This would include having another person touch you sexually, forcibly, and/or without their consent.

<sup>7</sup> The Age of Consent in Connecticut is 16 years old.

- iii) Sexual Assault with an Object:
  - The use of an object or instrument to penetrate,
  - however slightly, the genital or anal opening of the body of the Complainant,
  - forcibly, and/or against their will (non-consensually), or
  - not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- iv) Fondling:
  - The touching of the private body parts of the Complainant (buttocks, groin, breasts),
  - for the purpose of sexual gratification,
  - forcibly, and/or against their will (non-consensually), or
  - not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- c) Incest:
  - i) Sexual intercourse,
  - ii) between persons who are related to each other,
  - iii) within the degrees wherein marriage is prohibited by the State of Connecticut law.
- d) Statutory Rape:
  - i) Non-forcible sexual intercourse,
  - ii) with a person who is under the statutory age of consent of 16, provided that the younger person is at least 13, or with a minor under age 13 if the actor is more than two years older than the minor. (For further information on sexual consent under Connecticut Law, see Connecticut General Statutes Section 53a-71.)

4) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - i. The existence of such a relationship shall be determined 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—
    - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - b) Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence<sup>8</sup>, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,

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<sup>8</sup> To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the State of Connecticut, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the State of Connecticut.

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.
- (ii) Reasonable person means a reasonable person in the position of the Complainant and under similar circumstances
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

The University of New Haven reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. For more specific information about the range of sanctions, see the section below on Sanctions.

**b. Prohibited Relationships Policy** (see [Appendix B](#))

**c. Consent, Incapacitation<sup>9</sup>, Force, and Coercion**

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

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<sup>9</sup> The state definition of "Affirmative consent" means an active, clear and voluntary agreement by a person to engage in sexual activity with another person (CT Public Act No. 16-106), which is applicable to criminal prosecutions for sex offenses in Connecticut but may differ from the definition used on campus to address policy violations. [Included for Clery/VAWA Sec. 304 compliance purposes]

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent is:**

- Active,
- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease immediately, meaning as soon as physically possible.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar or previous patterns that may be evidenced.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including due to the influence of alcohol or other drug consumption. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, and/or being drunk.

A Respondent may reasonably have relied on a clear expression of consent from a person who was incapacitated only if the Respondent either knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

#### **d. Other Sexual Misconduct Offenses**

In addition to the forms of sexual discrimination and harassment described above, the University of New Haven additionally prohibits the following offenses as forms of sexual harassment that may be within or outside of Title IX. Violations of other University policies may fall within this Policy when the violation involves conduct that is directed at a specific person and the circumstances of such conduct would cause a reasonable person to believe that the conduct is directed at that specific person because of that person's sex. The inclusion of the enumerated acts of conduct on the below list or in any other University Policy does not suggest or indicate that they are not covered by or subject to Title IX.

1) **Sexual Exploitation**, defined as:

- a. An individual taking non-consensual or abusive sexual advantage of another,
- b. for their own benefit or for the benefit of anyone other than the person being exploited, and,
- c. that conduct does not otherwise constitute sexual harassment under this policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed);
- Invasion of sexual privacy;
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography;
- Prostituting another person;
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection;
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity;
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
- Knowingly soliciting a minor for sexual activity;
- Engaging in sex trafficking; or,
- Knowingly creating, possessing or disseminating child pornography.

- 2) Extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person.

The University of New Haven reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. For more specific information about the range of sanctions, see the section below on Sanctions.

## **16. Retaliation**

Retaliation that relates to sexual harassment and occurs in an educational program or activity may violate Title IX. The University prohibits members of the University Community from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University of New Haven will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## **17. Mandated Reporting**

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected sexual harassment and/or misconduct. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

With the exception of these designated confidential resources, all University of New Haven employees (faculty, staff, administrators) are required to report actual or suspected sexual harassment and/or misconduct to appropriate officials immediately.

If a Complainant seeks formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at the University for a Complainant or third-party (including parents/guardians when appropriate):

### **d. Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors and staff at the University's Counseling & Psychological Services;
- On-campus Health Services providers and staff;
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination, which includes the University's Chaplain; and/or,
- Off-campus (non-employees):
  - Licensed professional counselors and other medical providers;
  - Local rape crisis counselors, including the advocates with the Rape Crisis Center of Milford;

- Domestic violence resources;
- Local or state assistance agencies;
- Clergy/Chaplains; and/or,
- Attorneys.

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases where there exists an immediate threat or danger or abuse of a minor, or when required to disclose by law or court order.

University clinicians/counselors [and/or the Employee Assistance Program] are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Parties reporting sexual misconduct should also be aware that University administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. University employees who are confidential, and who receive reports within the scope of their confidential roles, will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient.

#### **b. Mandated Reporters and Formal Notice/Complaints**

In addition to relaying Complainant and third-party reports of sexual misconduct, employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator unless the Complainant specifically requests that the mandated reporter anonymously report the incident (see below).

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the University. Supportive measures may be offered as the result of such disclosures without formal University action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of sexual harassment and/or misconduct of which they become aware is a violation of the University’s policy and can be subject to disciplinary action, up to and including termination.

When a Mandated Reporter is engaged in harassment or other violations of this policy, they have a duty to report their own misconduct, though the University will not be deemed on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

#### **c. Anonymous Notice to Mandated Reporters**

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant, provided that the Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant’s anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to the Complainant’s health or

safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by the University to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous notice typically limits the University's ability to investigate, respond, and provide remedies, and the extent of the University's response will necessarily depend upon what information is shared.

### **18. When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator, or designee, has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment. However, the Title IX Coordinator will only initiate a formal grievance process against the Complainant's wishes if it is not clearly unreasonable to do so in light of the circumstances. This determination should be made based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the University of New Haven to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Recipients may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University proceeds, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony, meaning that the Advisor may not testify on the Complainant's behalf.

Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by University of New Haven, and to have the incidents investigated and properly

resolved through these procedures. Please consider, however, that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

### **19. Federal Timely Warning Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the University must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

### **20. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. Disciplinary action will not be imposed, however, for allegations that are made in good faith but ultimately are shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under University policy.

### **21. Amnesty for Complainants and Witnesses**

The University of New Haven community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the University maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system.

Violations of the code of conduct may, however, be referred for educational follow-up.

### **22. Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;

- c) VAWA<sup>10</sup>-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information will be kept private for federal reporting purposes, but statistical information regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) must be shared with University Police Department for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: Student Conduct staff, University Police and Public Safety, coaches, athletic directors, Office of Residential Life staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

### **23. Preservation of Evidence**

The preservation of evidence in incidents of sexual assault, and similar sexual misconduct incidents, is critical to potential criminal prosecution and to obtaining restraining orders and is particularly time sensitive. The University will inform the Complainant of the importance of taking the following actions to preserve evidence:

- a. Seek forensic medical assistance at Yale New Haven Hospital or the applicable local hospital, ideally within 120 hours of the incident (sooner is better).
- b. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- c. Try not to urinate.
- d. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- e. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
- f. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.
- g. Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
  - i. Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
  - ii. Save copies of any messages, to include those showing any request for no further contact.
- h. Save copies of e-mail and social media correspondence, including notifications related to account access alerts.
- i. Take timestamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- j. Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely. Refer to [Appendix E](#) for more guidance on taking immediate action.

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<sup>10</sup> VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.  
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## **FORMAL RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL HARASSMENT & MISCONDUCT**

### **1. Overview**

The University will act on any formal or informal notice/complaint of violation of the policy on Sexual Harassment & Misconduct (“the Policy”) that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.

The procedures below apply to all allegations of sexual harassment or misconduct involving students, staff, administrators, or faculty members. When dismissal of a subset of allegations is required, any remaining allegations will proceed using the grievance procedures described herein.

Unionized/other categorized employees are subject to the terms of their agreements/employees’ rights to the extent those agreements do not conflict with federal or state compliance obligations.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student and employee handbooks.

### **2. Notice/Complaint**

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the University needs to take.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not wish to submit a formal complaint; and/or
- 2) An informal resolution (upon submission of a formal complaint) and at the discretion of the University and both parties; and/or
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

The University uses the Formal Grievance Process to determine whether the Policy has been violated. If the University determines that the Policy has been violated, it will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or misconduct, their potential reoccurrence, or their effects.

### **3. Initial Assessment**

Following receipt of notice or a formal complaint of an alleged violation of this Policy, the Title IX Coordinator<sup>11</sup> engages in a prompt initial assessment. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety or the

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<sup>11</sup> Should an allegation be made about the impartiality of the Coordinator or the Coordinator is otherwise unavailable or unable to fulfill their duties, the President or Title IX Coordinator may designate another person to oversee the process described below.

Title IX Coordinator determines, in their discretion, that the circumstances warrant the filing of a complaint.

- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and then implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in informal resolution. The informal resolution process may not be initiated, however, absent the consent of both parties.
  - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue, based on the nature of the complaint.
    - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable and will refer the matter accordingly. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX, and does not limit the University’s authority to address a complaint with an appropriate process and remedies.

**a. Violence Risk Assessment:** (see [Appendix C](#))

**b. Dismissal (Mandatory and Discretionary)<sup>12</sup>**

The University of New Haven must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the University of New Haven (including buildings or property controlled by recognized student organizations), and/or the Respondent is not a member of the University Community; and/or
- 3) The conduct did not occur against a person in the United States; and/or

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<sup>12</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45.

- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the recipient.

The University may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- a. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- b. The Respondent is no longer enrolled in or employed by the recipient; or
- c. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any required or permitted dismissal, the University will promptly send written notice of and the rationale for the dismissal simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

When mandatory dismissal is applicable for an employee Respondent, the matter will be referred to Human Resources for sanctioning and applicable resolution and will not be referred to a hearing.

The dismissal of one or more allegations does not prevent the remaining allegations from proceeding under the Grievance Process provided herein. Dismissal is solely a procedural requirement of Title IX and does not prevent the University from proceeding with a Grievance Process or imposing discipline under this sexual misconduct policy or other University policies.

#### **4. Counterclaims**

The University is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy. If the University determines that the counterclaims are made for the purpose of retaliation, they will be dismissed.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

#### **5. Right to an Advisor**

The parties may each have an Advisor<sup>13</sup> of their choice present with them for all meetings, interviews, and hearing within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>14</sup> If a party does not have an advisor present at the live hearing, the University will provide an advisor free of charge to conduct cross-examination on behalf of the

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<sup>13</sup> This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).

<sup>14</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

party.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

#### **a. Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with throughout the resolution process. The parties may choose Advisors from inside or outside of the University of New Haven community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and will be familiar with the University's resolution process.

If the parties choose an Advisor from outside the pool of those identified by the University, the Advisor may not have been trained by the University and may not be familiar with the University's policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

#### **b. Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The University cannot guarantee equal Advisory rights and does not guarantee the right to an attorney-Advisor. This means that if one party selects an Advisor who is an attorney, but the other party does not want or cannot afford an attorney, the University is not obligated to provide an attorney.

#### **c. Advisors in Hearings/University-Appointed Advisor**

Cross examination of the parties and witnesses will be permitted, provided, however, that the parties are not permitted to directly question each other or any witnesses. Rather, cross-examination must be conducted by the parties' Advisors. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the University will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. The Decision-maker(s) may also conduct questioning of the parties and witnesses during the hearing.

#### **d. Pre-Interview Meetings**

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-interview meeting allows Advisors to clarify and understand their role and University's policies and procedures.

#### **e. Advisor Violations of University Policy**

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The parties involved are responsible for presenting their own information, and therefore, advisors are not permitted to represent any person involved in the investigation and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process, but the advisee may consult with their advisor, either privately as needed, or by conferring or passing notes during any meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

#### **f. Sharing Information with the Advisor**

The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The University also provides a consent form that authorizes the University to share such information directly with their Advisor. The parties must either complete and submit the Academic & Disciplinary Contacts form online via MyCharger or provide similar documentation demonstrating consent to a release of information to the Advisor before the University is able to share records with an Advisor. Absent such consent, the University will not share information directly with the advisor.

If a party requests that all communication be made through their attorney Advisor, the University will comply with that request at the discretion of the Title IX Coordinator.

#### **g. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University of New Haven. The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

#### **h. Expectations of an Advisor**

The University of New Haven generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### **i. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. If a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be executed. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different Advisor. If a University-provided Advisor refuses

to comply with the rules of decorum, the University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

## **6. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below. The University of New Haven encourages, but does not require, parties to discuss any sharing of information with their Advisors before doing so.

### **a. Informal Resolution**

Informal Resolution can include two different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation;
- When the parties agree to resolve the matter through an informal resolution mechanism, such as where the Respondent accepts responsibility and desires to accept a sanction and end the resolution process.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution, should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and elect to begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the University of New Haven will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution. Absent the consent of both parties, informal resolution will not be permitted.

### **b. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be commenced with the consent of the University and both parties.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University of New Haven are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator will implement the accepted finding that the Respondent is in violation of University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **c. Negotiated Resolution**

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University. Negotiated Resolutions are not appealable.

### **7. Grievance Process Pool** (see [Appendix F](#))

### **8. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the initial interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University of New Haven presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the University’s policy on retaliation,
- Information about the privacy of the process,
- Information about the need for each party to have an Advisor of their choosing, the right to a University-appointed Advisor, and suggestions for ways to identify an Advisor,
- A statement informing the parties that the University’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Details on how the party may request disability accommodations during the interview process,
- A link to the University’s Know Your Rights & Options (VAWA Compliant) Brochure,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges. If the University intends to investigate allegations not included in the original NOIA, additional notice will be provided prior to commencing the investigation.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University records, or emailed to the parties’ University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

## **9. Resolution Timeline**

The University of New Haven will make a good faith effort to complete the resolution process within a one-hundred twenty (120) business day time period, exclusive of appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## **10. Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

## **11. Ensuring Impartiality**

The parties are entitled to an impartial resolution process. Accordingly, any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker(s) may not have a conflict of interest or bias for a specific party, or for Complainants or Respondents generally.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the University's Associate Vice President for Human Resources & Organizational Development, Jennifer Cinque, by phone at (203) 932.7040 or by email at [jcinque@newhaven.edu](mailto:jcinque@newhaven.edu).

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation (inculpatory evidence) and evidence that supports that the Respondent did not engage in a policy violation (exculpatory evidence). Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The University of New Haven operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by a preponderance of the evidence.

## **12. Investigation Timeline**

Investigations are completed expeditiously though some investigations may require additional time, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

## **13. Delays in the Investigation Process and Interactions with Law Enforcement**

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The University will communicate in writing to the parties the anticipated duration of the delay and reason and will provide the parties with status updates as necessary. The University will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the University will implement supportive measures as deemed appropriate.

University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

#### **14. Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, though they will not necessarily occur in this order:

- Determine the identity and contact information of the Complainant;
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures;
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated;
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation;
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties;
- Meet with the Complainant to finalize their interview/statement, if necessary;
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations;
  - The NOIA will inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party;
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings;
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible;
- When participation of a party is expected, provide that party with advance written notice of the date, time, and location of the meeting, as well as the expected participants and purpose;
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary;
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses;
- Complete the investigation promptly and without unreasonable deviation from the intended timeline;
- Provide regular status updates to the parties throughout the investigation;
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding;

- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included;
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the Recipient does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).;
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties and solicit additional responses;
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period;
- The Investigator(s) may share the report with the Title IX Coordinator and/or legal counsel for their review and feedback; and,
- The Investigator will incorporate any relevant feedback, and the final report will then be shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

### **15. Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of the University are expected to cooperate with and participate in the University's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Student witnesses and witnesses from outside the University community are encouraged to cooperate with University investigations and to share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Unlike parties, witnesses are not entitled to have an Advisor participate in the process, though witnesses may consult externally with an attorney or other advisor at their discretion.

### **16. Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If an Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent in writing or on the audio or video recording to audio and/or video recording.

### **17. Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

### **18. Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker.

The Title IX Coordinator will select appropriate Decision-maker(s) from the Pool depending on whether the Respondent is an employee or a student. Allegations involving student-employees in the context of their employment will be directed to the appropriate Decision-maker(s) depending on the context and nature of the alleged misconduct.

### **19. Hearing Decision-maker Composition**

The University of New Haven will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

The Decision-maker(s) will not have had any previous involvement with the investigation. Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

### **20. Evidentiary Considerations in the Hearing**

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. After post-hearing deliberation, the Decision-maker will render a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

With respect to sanctions, previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming the University uses a progressive discipline system. This information may only be considered at the sanction stage of the process, and may not be shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process after a determination of responsibility has been made.

## **21. Notice of Hearing**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result upon a determination of responsibility.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one provided, however, that the University is not required to appoint an attorney-Advisor, even if the other party has an attorney-Advisor. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.<sup>15</sup>
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties may be permitted to bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 120 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is

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<sup>15</sup> The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

not in good standing to graduate.

## **22. Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party may request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow live remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

## **23. Pre-Hearing Preparation**

The Chair, or hearing facilitator, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all parties and the Chair assent to the witness's participation in the hearing. Similarly, if the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who determines that they cannot make an objective determination must recuse themselves from the proceedings. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be provided to each party by the Chair.

## **24. Pre-Hearing Meetings**

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion of evidence at a pre-hearing meeting.

The Chair, with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will be recorded.

## **25. Hearing Procedures**

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of harassment, misconduct, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the harassment, misconduct, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Sexual Harassment and Misconduct.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or two (2) organizational representatives when an organization is the Respondent), Advisors to the parties, testifying witnesses, and anyone providing authorized accommodations or assistive services.

The Chair and/or Hearing Facilitator will answer all questions concerning procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf, not through an advisor or attorney.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and the witnesses will then be excused.

## **26. Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

## **27. The Order of the Hearing – Introductions and Explanation of Procedure**

The Chair will explain the procedures and introduce the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The Chair and/or hearing facilitator will then conduct the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process will be managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

## **28. Investigator Presents the Final Investigation Report**

The Investigator(s) will then present a summary of the final investigation report, including both items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

## **29. Testimony and Questioning**

Once the Investigator(s) has presented their report and been questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”). The parties themselves will not be permitted to conduct questioning.

All questions are subject to a relevance determination by the Chair. The Advisors, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or must be rephrased.

The Chair may invite explanations or persuasive arguments regarding relevance from the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance. After the Chair has reached a decision, additional arguments on relevance from the Advisors will not be entertained.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

## **30. Refusal to Submit to Cross-Examination and Inferences**

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party’s or witness’s absence from the hearing or refusal to submit to cross-examination or answer other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

### **31. Recording Hearings**

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings unauthorized recordings are prohibited.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### **32. Deliberation, Decision-making, and Standard of Proof**

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history provided by Student Conduct administrators (for purposes of progressive discipline determinations) and will recommend the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions (or recommendations).

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **33. Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator will work with the Chair to facilitate a Notice of Outcome. The Notice of Outcome may then be reviewed by legal counsel. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within five (5) business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state or federal law; any sanctions issued which the University is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

### **34. Statement of the Rights of the Parties** (see [Appendix A](#))

### **35. Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the harassment, misconduct, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of harassment, misconduct, and/or retaliation
- The need to remedy the effects of the harassment, misconduct, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

#### **a. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination<sup>16</sup>:

- *Warning*: A formal notice that the conduct has violated institutional regulations and a warning that further violation of any University of New Haven policy, procedure, or directive will result in more severe disciplinary actions.
- *Loss of Privileges*: Denial of specific privileges for a designated period of time. Such action includes but is not limited to loss of use of a specific University facility, campus motor vehicle parking and operating privileges, and social privileges. A date will be specified after which the student may regain those privileges.
- *Probation*: A written reprimand for a specific violation. Probation is for a designated period of time during which a student must show a positive change in behavior and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional regulation(s) during the

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<sup>16</sup> Subject to University's Code of Conduct.

probationary period. Disciplinary probation is a status which may involve restrictions, conditions, or terms imposed for a definite period of time which may include but are not limited to ineligibility to participate in University activities or events, periodic contact or counseling with a designated member of the University community, restrictions on access to University facilities and/or housing areas, and change of housing assignment, no-contact orders, and/or other measures deemed appropriate.

- *University Suspension*: Separation of the student from the University for a definite period of time during which the student is excluded from classes, residence on campus, and all privileges and activities of the University. During a period of suspension, a student is not permitted on University property without the written permission of the Dean of Students. Suspension is recorded on the student's academic record for the period of the suspension and removed upon completion of the suspension period. Upon termination of the suspension period, the student may petition the Dean of Students for reinstatement to their former status; the Dean must approve readmission/reinstatement. The University reserves the right to readmit or deny readmission to a student following a period of suspension.
- *University Expulsion*: Permanent termination of student status without the possibility of readmission and revocation of rights to be on campus for any reason or to attend University-sponsored events. A sanction of expulsion must be reviewed and approved by the Chief Student Affairs Officer and President before it becomes effective. Expulsion is recorded on the student's academic record.
- *Withholding of Degree*: The University may withhold the awarding of a degree otherwise earned until completion of the process set forth in this Student Code of conduct, including completion of any sanctions imposed.
- *Revocation of Admission and/or Degree*: Admission to the University or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Sanctions Applicable to Student Clubs, Groups, and Organizations*: If a recognized student organization violates a policy or regulation of the University or local, state, or federal law, one or more of the following sanctions may be imposed:
  - Those sanctions listed in the University Code of Conduct, Article VIII (B) 1-6.
  - Loss of selected rights and privileges for a specified period of time.
  - Deactivation, defined as loss of all privileges, including University recognition, for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed reasonable and appropriate in light of the Respondent's conduct.

#### **b. Employee Sanctions/Responsive Actions**

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Warning – Verbal or Written*
- *Cease and Desist Orders*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Training or Education*
- *Probation*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Reassignment or Transfer*
- *Delay of Tenure Track Program*
- *Assignment to New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension with pay*
- *Suspension without pay*

- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the University reserves the right to alter the above recommended sanctions if there are compelling circumstances that justify greater or lesser sanctions.

### **36. Withdrawal or Resignation While Charges Pending**

**Students:** If a student has an allegation pending for violation of the Policy on Sexual Harassment and Misconduct, the University of New Haven may place a hold on a student’s ability to graduate and/or to receive an official transcript/diploma.

Should a student decide not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University, the resolution process ends, as the University no longer has disciplinary jurisdiction over the withdrawn student.

However, the University of New Haven will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, misconduct, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University. Such exclusion applies to all campuses, events, and activities of the University of New Haven. A hold will be placed on their ability to be readmitted.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student will not be permitted to return to University unless and until all sanctions have been satisfied.

**Employees:** Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee.

However, the University of New Haven will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University or any campus of the University, and the records retained by the Title IX Coordinator will reflect that status.

### **37. Appeals**

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome.

A three-member appeal panel chosen from the Pool will be designated by the Title IX Coordinator. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. A voting Chair of the Appeal panel will be designated.

#### **a. Grounds for Appeal**

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

All requests for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

If the grounds stated in the Request for Appeal do not meet one of the three permissible grounds set forth in this Policy that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the three permissible grounds set forth in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal during the responsive time period. In such instances, the request for appeal will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in three (3) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel, and the Panel will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions are by majority vote and review the underlying decision for clear error.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the supportive measure procedures described above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) must be conducted within 48 hours of implementation.

The University may place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation. The Respondent may request a stay of these holds from the Title IX Coordinator within two (2) business days of the notice of the

sanctions. The request will be evaluated by the Title IX Coordinator or designee, whose determination is final.]

### **c. Appeal Considerations**

- Appeals are not intended to provide for a full re-hearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Decision-maker(s) may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed, provided, however, that the Title IX Coordinator may not provide input concerning the merits of the appeal. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural error cannot be cured on remand by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status.

### **38. Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions that are intended to stop harassment, misconduct, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of University Police escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the University to the Respondent to ensure no effective denial of educational access.

The University will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the University's ability to provide these services.

### **39. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair/Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University of New Haven and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **40. Recordkeeping**

The University will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies or supportive measures provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on the University's website.
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to the University's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The University will also maintain any and all records in accordance with state and federal laws.

### **41. Disabilities Accommodations in the Resolution Process**

The University of New Haven is committed to providing reasonable accommodations and support to students, employees, or others with disabilities to ensure equal access to the University's resolution process.

Anyone needing such accommodations or support should contact the Director of the Accessibility Resource Center, or Executive Director of Human Resources, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are necessary and appropriate for full participation in the process.

### **42. Revision of this Policy and Procedures**

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX

Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are deemed in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate scheduling. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections or promises beyond the protections of the background state and federal laws which frame this policy, generally.

This Policy and procedures are effective July 12, 2023.

## **APPENDIX A: STATEMENT OF RIGHTS OF THE PARTIES**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or misconduct made in good faith to University of New Haven officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted or required by law.
- The right to be treated with respect by University of New Haven officials.
- The right to have University policies and procedures followed without material deviation absent good cause.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by University authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by University law enforcement and/or other University officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a University-implemented No Contact Order, or a No Trespass Order against a non-affiliated third party, when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of harassment, misconduct, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
  - Relocating an on-campus student's housing to a different on-campus location
  - Assistance from University staff in coordinating the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Arranging to dissolve a housing contract, and any applicable refunds

- Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class
  - Transferring class sections
  - Temporary withdrawal/leave of absence
  - University Police campus escorts
  - Alternative course completion options.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the University's ability to provide the supportive measures.
  - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
  - The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
  - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
  - The right not to have irrelevant prior sexual history or character admitted as evidence.
  - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
  - The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
  - The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
  - The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
  - The right to regular updates on the status of the investigation and/or resolution.
  - The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
  - If a panel is used, the right to an unbiased Hearing Panel which, to the extent possible, will not be single-sex in its composition.
  - The right to preservation of privacy, to the extent possible and permitted by law.
  - The right to meetings, interviews, and/or hearings that are closed to the public.
  - The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
  - The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
  - The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.

- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right for any formal grievance hearing to be live.
- The right to cross-examination during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.
- The right to a fundamentally fair resolution as defined in these procedures.

## **APPENDIX B: PROHIBITED RELATIONSHIPS POLICY**

Any relationship (as defined below) between faculty-student, staff-student, and supervisor-employee are of significant concern to the University because of the legal, ethical, and administrative issues they raise. Faculty and staff members are in positions of authority over students and can exercise that power in many ways, whether it is evaluating and grading students work or making recommendations for employment or graduate school. A similar power imbalance exists between a supervisor and subordinate because the supervisor has the authority to evaluate and rate an employee's performance, as well as promote, demote or discipline a subordinate.

This inherent power differential commonly create conflicts of interest and lead to claims of favoritism, exploitation, bias, abuse of power and/or sexual harassment. These relationships disrupt the workplace and learning environment and undermine the integrity and reputation of the University and its employees. All employees of the University have a responsibility to avoid any conflict of interest between their professional duties and personal relationships with students or other employees. This policy sets forth the rules and guidelines regarding relationships defined as prohibited in the workplace and the consequences associated with violating this policy.

### **Definitions**

- *Relationship* is an intimate, sexual, and/or any other type of amorous encounter or relationship, whether casual or serious, short-term or long-term.
- *Faculty* means all faculty members including but not limited to tenure-track, non-tenure track, adjuncts, PIR's, lecturers, part-time and full-time faculty.
- *Staff* means full-time or part-time Academic and Administrative employees, individuals who exert significant influence and authority over students such as coaches, including student employees such as residential life staff and orientation leaders. Also, all employees covered by a collective bargaining agreement, as well as hourly, per-diem and temporary employees, are covered by this policy. Staff does **not** include student-employees whose primary relationship with the University is that of student with the noted exceptions above.
- *Student* is any person enrolled as a part-time or full-time undergraduate or graduate student in any of the University's academic programs.
- *Students in Positions of Authority* who are serving as a teaching assistant in a course or serving as a research assistant and supervising other student in research. In addition, non-academic student employees such as residential life staff or orientations leaders.
- *Vendors* is anyone who provide goods and/or services to the University, including internship/CO-OP providers.

### **Policy Standards and Procedures**

#### **A. Prohibited Relationships within Instructional/Student Context**

The power difference inherent in the faculty-student or staff-student relationship means that any relationship between a faculty or staff member and a student (as further defined below) is inherently dangerous to the work environment and is therefore prohibited. Faculty and staff who engage in such relationships should recognize that they might unexpectedly be placed in a position of responsibility for the student's instruction or evaluation. In the event of a charge of Sexual Harassment arising from such circumstances, a defense based upon consent, when the facts establish that faculty-student or staff-student power differential existed within the relationship, will be considered a violation of the policy, with consequences.

### **1) Undergraduate and Graduate Students**

All faculty and staff are prohibited from pursuing or engaging in any relationship with undergraduate or graduate students.

### **2) Students in Position of Authority**

Relationships between a student in a position of authority (undergraduate or graduate) over another student are prohibited. Supervising students currently or previously engaged in a prohibited relationship with another student are proscribed from serving in a position of authority over that student. Students should also recognize that they might unexpectedly be placed in a position of responsibility for another student's instruction, behavioral expectations or evaluation.

### **3) Pre-Existing Relationships with Any Student**

The University recognizes that a relationship may exist prior to the time a student enrolls at the University. The current or prior existence of such a relationship must be disclosed to the Vice President of Human Resources, the Dean of Students, and the Dean of the College by the employee.

All faculty and staff currently or previously engaged in an relationship with a student are prohibited from the following unless effective steps have been taken in conjunction with the Vice President of HR and/or the applicable Dean to eliminate any potential conflict of interest in accordance with this Policy: teaching; formal mentoring or advising; supervising research; exercising responsibility for grades, honors or degrees; considering disciplinary action involving a student; or employing a student in any capacity-including, but not limited to, student employment and internships, work study, or as a research or teaching assistant. Similarly, all graduate students currently or previously engaged in a relationship with another student are prohibited from serving in a position of authority over such students.

### **4) If a Prohibited Relationship Occurs with Any Student**

If a faculty member, staff member, or student becomes involved in a prohibited relationship with a student in violation of this Policy, the faculty member, staff member, or student must disclose the relationship immediately to the Dean of Students, the Dean of the College and the Vice President of Human Resources. In addition to the prohibited relationship itself, a faculty, staff or student's failure to report the existence of a prohibited relationship with a student is also a violation of this policy. Immediate self-reporting will be considered a factor in a resolution of a violation of this policy.

## **B. Prohibited Relationships between Supervisors and their Subordinates**

Prohibited relationships between supervisors and their subordinate employees often adversely affect decisions, distort judgment, and undermine workplace morale for all employees, including those not directly engaged in the relationship. Any University employee who participates in supervisory or administrative decisions concerning an employee with whom they have or has had a relationship has a conflict of interest. These types of relationships, specifically those involving spouses and/or individuals who reside together, also may violate this policy.

Accordingly, the University prohibits all faculty and staff from pursuing or engaging in prohibited relationships with employees whom they supervise. No supervisor shall initiate or participate in institutional decisions involving a direct benefit or penalty (employment, retention, promotion, tenure, salary, leave of absence, etc.) to a person with whom that individual has or has had a prohibited relationship. The individual in a position of authority can be held accountable for creating a sexually hostile environment or failing to address a sexually hostile environment and thus should avoid creating or failing to address a situation that adversely impacts the working environment of others.

### **1) Pre-existing Relationships Between Supervisor and Subordinate**

The University recognizes that a relationship, under this policy would be deemed as prohibited may exist prior to the time an individual is assigned as supervisor. Supervisory, decision-making, oversight, evaluative or advisory relationships for someone with whom there exists or previously has existed a prohibited relationship are banned unless effective steps have been taken to eliminate any potential conflict of interest in accordance with this Policy. The current or prior existence of such a relationship must be disclosed by the employee in a position of authority prior to accepting supervision of the subordinate to the Vice President of Human Resources. The Vice President of Human Resources will in conjunction with the applicable Dean or Department Head will determine whether the conflict of interest can be eliminated through termination of the situation of authority.

### **2) If a Prohibited Relationship Occurs or has Occurred between a Supervisor and their Subordinate**

If a University employee enters into a prohibited relationship with someone over whom they have supervisory, decision-making, oversight, evaluative, or advisory responsibilities, that employee must disclose the existence of the relationship immediately to their supervisor, who in turn must notify the Vice President of Human Resources. The V.P. of HR will work in conjunction with the Supervisor or Department Head to determine whether the conflict of interest can be eliminated through termination of the situation of authority. In most cases, it will be unlikely that an acceptable resolution to the conflict of interest will be possible. If the conflict of interest cannot be eliminated, the supervisor's employment standing may need to be adjusted. In addition to a prohibited relationship itself, a supervisor's failure to report the existence of the relationship with a subordinate employee is also a violation of this Policy. Immediate self-reporting will be considered a supporting factor in a resolution of a violation of this policy.

## **APPENDIX C: VIOLENCE RISK ASSESSMENT (VRA)**

The Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Behavioral Intervention Team as part of the initial assessment. A VRA can aid the Title IX Coordinator in making various critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or other Behavioral Intervention Team (BIT) members.

A VRA occurs in collaboration with the BIT, CARE, and or threat assessment team and must be understood as an on-going process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

Rather, a VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. an appraisal of **risk factors** that escalate the potential for violence;
2. a determination of **stabilizing influences** that reduce the risk of violence;
3. a contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence; and
4. the application of **intervention and management** approaches to reduce the risk of violence.

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the BIT. The Behavioral Intervention Team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor will follow the process for conducting a violence risk assessment as outlined above and will rely on a consistent, research-based, reliable system that allows the for the operationalization of the risk levels.

Some examples of formalized approaches to the VRA process include: The NaBITA Risk Rubric,<sup>17</sup> The Structured Interview for Violence Risk Assessment (SIVRA-35),<sup>18</sup> The Extremist Risk Intervention Scale (ERIS),<sup>19</sup> Looking

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<sup>17</sup> [www.nabita.org/tools](http://www.nabita.org/tools)

<sup>18</sup> [www.nabita.org/resources/assessment-tools/sivra-35/](http://www.nabita.org/resources/assessment-tools/sivra-35/)

<sup>19</sup> [www.nabita.org/resources/assessment-tools/eris/](http://www.nabita.org/resources/assessment-tools/eris/)

Glass,<sup>20</sup> Workplace Assessment of Violence Risk (WAVR-21),<sup>21</sup> Historical Clinical Risk Management (HCR-20),<sup>22</sup> and MOSAIC.<sup>23</sup>

The VRA is conducted independently from the Title IX process, free from outcome pressure, but is informed by it. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The Behavioral Intervention Team or threat team's member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community.

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<sup>20</sup> [www.nabita.org/looking-glass](http://www.nabita.org/looking-glass)

<sup>21</sup> [www.wavr21.com](http://www.wavr21.com)

<sup>22</sup> [hcr-20.com](http://hcr-20.com)

<sup>23</sup> [www.mosaicmethod.com](http://www.mosaicmethod.com)

## **APPENDIX D: RESOURCE & SUPPORT SERVICES LIST**

### **Confidential Resources**

*The resources listed below are strictly confidential; strictly confidential refers to a department's obligation to keep all reports confidential unless a report of an individual intending to harm themselves or others is made.*

#### **College Advocate — Rape Crisis Center of Milford**

*24-hour confidential hotline (203) 878.1212; Email – [mrcc@newhaven.edu](mailto:mrcc@newhaven.edu)*

The Rape Crisis Center of Milford's College Advocate provides support, advocacy, and crisis counseling for victims and relays the options available to victims of sexual assault and the campus community. The College Advocate also provides educational opportunities to the campus community. The advocate is available to be present with the victim from the time of disclosure of sexual assault.

#### **BHcare — Umbrella Center for Domestic Violence Services**

*24-hour confidential hotline - statewide (888)774.2900*

*Greater New Haven and shoreline - 203 789-8104, Lower Naugatuck Valley -203 736-9944*

The Umbrella advocate provides crisis intervention that includes safety planning, risk assessment, and domestic violence education for victims of domestic violence. Educational presentations are available to the student community upon request.

#### **University Health Services**

*Sheffield Hall, Lower level (203) 932.7079*

Health Services is open to all currently enrolled University students without charge, Monday through Friday, during the academic year. Daily hours may change due to various circumstances; call (203) 932.7079 prior to visit. All contacts are confidential. Staff members provide crisis and follow-up care for victims of sexual assault and make referrals to local hospitals for the administration of sexual assault evidence collection kits (also known as rape kits). For immediate medical needs during hours when Health Services is closed, students should seek emergency services, i.e., local hospital emergency rooms, University Police Department, local police, and local rape crisis centers.

#### **University Counseling and Psychological Services**

*Sheffield Hall, Lower level (203) 932.7333*

Counseling and Psychological Services staff provides students with support for the long-term effects of sexual assault. All contacts are confidential.

### **Additional On-Campus Resources**

#### **University Police Department**

*Lower level of the Campus Bookstore (203) 932.7014*

University Police officers assist with the immediate medical needs of victims; work with the Dean of Students Office in the investigation and adjudication of incidents, where appropriate; provide timely, campus-wide notification of incidents which pose an ongoing or continuing threat to the community; and assist in the preservation of evidence. While victims are encouraged to report crimes to the police, they may instead elect to seek counseling services and may be assisted by these services or by other campus resources.

## **Dean of Students Office**

*Bartels Campus Center, Top level (203) 932.7432*

The Dean and Associate Dean of Students work closely with the University's Police Department in the investigation and adjudication of incidents of sexual misconduct; provide support to student victims; and work towards maintaining a balance between addressing the needs of the victim and the needs of the campus community.

## **Office of Residential Life**

*Bixler Hall, Lower level (203) 932.7076*

Office of Residential Life staff members are knowledgeable about campus and local services and can help victims of sexual misconduct get assistance and provide support to residents impacted by sexual misconduct.

## **Myatt Center for Diversity & Inclusion**

*Gerber Hall, Lower Level (203) 932.7427*

The Director for the Myatt Center for Diversity & Inclusion is knowledgeable about campus and local services; provides support to student victims; and works closely with the Dean of Students Office to provide proactive initiatives to educate the campus community on issues related to sexual misconduct.

## **Human Resources Office – For Employees**

*South Hall, First Level (203) 932.7240*

The Human Resources staff members are knowledgeable about harassment prevention policies and practices. If you believe there is an issue or have encountered an issue of harassment or misconduct please contact Human Resources.

## **Campus Resource Team**

*To learn more about the Campus Resource Team, please call (203) 932.7445.*

In an ongoing effort to enhance the University's response to sexual violence and harassment, the University President has appointed a Campus Resource Team ("CRT"). The Campus Resource Team is comprised of critical campus officials as well as local resources involved in responding to sexual misconduct incidents. The CRT is charged with reviewing campus policies and recommending protocols for providing support and services to community members who report incidents of sexual misconduct. The group meets at least once per semester to review, assess, and update the University's Sexual Misconduct protocols and policies. Members include representatives from the following campus and local resources: Dean of Students Office, University Police, the Office of Residential Life, Counseling and Psychological Services, Health Services, Faculty, the Rape Crisis Center of Milford's College Advocate, and student representatives.

## **Greater New Haven/Orange Area Resources**

The Center for Family Justice

753 Fairfield Avenue, Bridgeport, CT 06604

(203) 333.2233 Sexual Assault Hotline

(203) 384.9559 Domestic Violence Hotline

<https://centerforfamilyjustice.org/>

Women and Families Center

1440 Whalley Avenue, New Haven, CT 06515

(888) 999.5545 English hotline

(888) 568.8332 Spanish hotline

<http://www.womenfamilies.org/>

YWCA New Britain

19 Franklin Square, New Britain, CT 06051

(860) 225.4861 office • (860) 223.1787 hotline

<https://www.ywcanb.org/>

Umbrella Center for Domestic Violence Services

435 East Main Street, Ansonia, CT 06401

(203) 736.2601 office • (203) 736.9944 hotline

(888) 774.2900 Toll Free hotline

<https://bhcare.org/>

Rape Crisis Center of Milford  
70 West River Street, Milford, CT 06460  
(203) 874.8712 office • (203) 878.1212 hotline  
<https://www.rapecrisiscenterofmilford.org/>

New Haven Legal Assistance Association, INC  
205 Orange Street, New Haven, CT 06510  
(203) 946.4811 office • (800) 453.3320 hotline  
<https://nhlegal.org/>

### **National & Statewide Resources**

CT Coalition Against Domestic Violence (CCADV)  
CT Safe Connect  
Live Chat, Email and Text available  
(888) 774.2900 hotline  
[www.ctsafeconnect.org](http://www.ctsafeconnect.org)  
[www.ctcadv.org](http://www.ctcadv.org)

Connecticut Alliance to End Sexual Violence  
(888) 999.5545 English hotline  
(888) 568.8332 Spanish hotline  
<https://endsexualviolencect.org/>

Rape, Abuse & Incest National Network  
National Sexual Assault Hotline  
(800) 656.4673 hotline  
Online chat feature:  
<https://hotline.rainn.org/online>  
[www.rainn.org/](http://www.rainn.org/)

National Domestic Violence Hotline  
(800) 799.7233 hotline  
(800) 787.3224 toll free  
[www.thehotline.org/](http://www.thehotline.org/)

### **Albuquerque, New Mexico Area Resources**

Rape Crisis Center of Central New Mexico  
9741 Candelaria NE, Albuquerque, NM 87112  
(505) 266.7712 office • (505) 266.7711 hotline  
<http://rapecrisiscnm.org/>

Stalking Prevention, Awareness & Resource Center  
(SPARC)  
Resources for safety-planning, documentation assistance,  
etc.  
<https://www.stalkingawareness.org/>

National Suicide Prevention Lifeline  
(800) 273.8255 English hotline  
(888) 628.9454 Spanish hotline  
[www.suicidepreventionlifeline.org](http://www.suicidepreventionlifeline.org)

Statewide Legal Services of CT, INC.  
(800) 453.3320 Toll-free  
<https://www.slscct.org/>

National Center for Victims of Crime  
Victim Connect Resource Center  
(855) 484.2846 hotline  
Online Chat feature:  
<https://chat.victimsofcrime.org/victim-connect/>  
<https://victimconnect.org/>

Domestic Violence Resource Center  
625 Silver St. SW, Albuquerque, NM 87102  
(505) 843.9123 office • (505) 248.3165 hotline  
<https://dvrcnm.org/>

## **APPENDIX E: GUIDANCE ON TAKING IMMEDIATE ACTION**

### **After an Incidence of Sexual Assault:**

1. Get to a safe place as quickly as you can. If there is any immediate danger, contact the University Police Department (203.932.7070) on campus, or call 911 if you are off campus. If you are on campus during regular business hours, you may go to Counseling and Psychological Services as well as to Health Services for support and guidance (both services are located in the lower level of Sheffield Hall). Both of these offices serve as strictly confidential resources.
2. It is encouraged that you do not wash, bathe, shower, douche, or change clothing after the incident if you wish to seek immediate medical treatment. If you have already taken any of these actions, you are still encouraged to seek prompt medical care, and evidence may still be recoverable.
3. In order to see a criminal case through to conclusion, it is important that evidence be preserved. Ensure that the physical scene of the assault, i.e., room, car, etc., not be altered, cleaned up, or disturbed in any way. The decision on how to proceed can be made at a later date, but evidence preservation keeps options open.
  - a. Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a **clean paper bag** or clean sheet, to avoid contamination.
  - b. If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
  - c. Record the names of any witnesses, and their contact information. This information may be helpful to the proof of a crime, to obtain an order of protection or to offer proof of a campus policy violation.
  - d. Try to memorize details (physical description, names, license plate number, car description) or even better, write notes to remind you of details, if you have time and the ability to do so.
4. You may want to receive medical attention as quickly as possible. In the State of Connecticut, you may request an advocate that can accompany you during all medical exams, free of charge, from the hospital. When receiving medical attention, it is very important that you TRY NOT eat or drink anything until the forensic evidence kit is completed at the hospital. Forensic evidence kits are available without charge in the State of CT, and may be completed within 120 hours of the incident. Hospital Emergency Departments are qualified to administer this kit.
5. If you decide not to seek medical attention in relation to a police investigation (i.e. the forensic evidence kit), still seek medical attention from University Health Services, a gynecologist or a local hospital. Female victims may talk to a healthcare professional about the “morning after pill” if the sexual contact may result in unwanted pregnancy. This type of medication is most effective within 72 hours of the incident. All persons may also want to be screened for sexually transmitted infections.
6. If you wish to request a toxicology kit, to screen for all drugs in your system, you may do so at the Hospital Emergency Department. Toxicology kits are more effectively immediately after the incident, and can be administered within 72 hours of the incident.
7. Consider telling someone you trust about the incident, or one of the community resources in [Appendix D](#). Some University officials are required to report information regarding sexual violence to the Title IX Coordinator, so you may refer to confidential resources as well.

### **During and/or After Intimate Partner Violence and/or Stalking:**

1. Get to a safe place as quickly as you can. If someone is following you, consider going to a police station and/or a public area.
2. In the event that you are experiencing intimate partner violence or stalking, you are encouraged to record all related behaviors, such as harassing telephone calls, electronic contacts (e.g., texts, e-mails, social media messages), letters/notes, acts of vandalism, and threats communicated through third parties. Record the following: date, time, and location of incident; description of what happened; and names of any witnesses. If possible, take pictures of evidence (e.g., bodily injuries, damaged items). Recording such information can help document behavior for protection order applications or criminal prosecution. It can also help you remember incidents about which you might later report or testify. Because this information may be introduced as evidence or inadvertently shared with the perpetrator, **do not include any information you do not want the offender to see.**
3. If you are being or were harmed, you are encouraged to receive medical attention as quickly as possible.
4. Tell someone you trust about the incident. You may want to develop a safe word to be used in emergency situations to indicate when and how this individual can help you.
5. If you obtain external orders of protection (e.g. restraining orders, injunctions, protection from abuse), please notify the University Police Department or Title IX Coordinator, Barbara Lawrence, so that those orders can be observed on campus. If you need assistance with University-related concerns, such as no-contact orders or other protective measure, contact the Title IX Coordinator, Barbara Lawrence ([blawrence@newhaven.edu](mailto:blawrence@newhaven.edu), 203.932.7269). The University is able to offer reasonable academic supports, changes to living arrangements, transportation resources or modifications, escorts, no contact orders, counseling services access, and other supports and resources as needed by a victim.
6. Treat all threats, direct or indirect, as legitimate and report them to one of the resources above. Even if there are no threats, consider reporting the incident(s).

### **During and/or After Sexually Harassment or Exploitation:**

1. Document the harassment:
  - a. Photograph and keep copies of any documentary evidence of harassment.
  - b. Keep a journal with detailed information on instances of sexual harassment. Note the dates, conversation, frequency of offensive encounters, etc.
  - c. Tell other people, including personal friends and co-workers, if possible.

If the harasser is a University student or employee, immediately report the harassment to the Title IX Coordinator, Barbara Lawrence ([blawrence@newhaven.edu](mailto:blawrence@newhaven.edu), 203.932.7269).

## **APPENDIX F: GRIEVANCE PROCESS POOL**

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. External, trained third-party neutral professionals may also be used to serve in pool roles.

### **a. Pool Member Roles**

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-Maker regarding the complaint
- To serve as an Appeal Decision-maker

However, the same member of the pool may not serve as both the investigator and decision-maker.

### **b. Pool Member Appointment**

The Title IX Coordinator appoints the Pool<sup>24</sup>, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the Recipient can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

### **c. Pool Member Training**

The Pool members receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of the University’s Sexual Harassment & Misconduct Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales

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<sup>24</sup>While the Title IX Coordinator generally appoints the Pool members, the University may, in its discretion, require prospective Pool members to undergo an application and/or interview/ selection process.

- The definitions of all offenses
- How to apply definitions used by the University with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence, including the relevance of a Complainant's prior sexual history
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recording

Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (who are University employees), and Chairs. All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted here: [www.newhaven.edu/titleix](http://www.newhaven.edu/titleix).

Pool members are typically appointed to two-year terms. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

## **APPENDIX G: RELATED CONNECTICUT STATUTES**

### ***Connecticut Penal Code V: Assault and Related Offenses***

#### **Sec. 53a – 59. Assault in the first degree: Class B felony: Nonsuspendable sentences.**

(a) A person is guilty of assault in the first degree when: (1) With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or (2) with intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such injury to such person or to a third person; or (3) under circumstances evincing an extreme indifference to human life he recklessly engages in conduct which creates a risk of death to another person, and thereby causes serious physical injury to another person; or (4) with intent to cause serious physical injury to another person and while aided by two or more other persons actually present, he causes such injury to such person or to a third person; or (5) with intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of the discharge of a firearm.

(b) Assault in the first degree is a class B felony provided (1) any person found guilty under subdivision (1) of subsection (a) shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court and (2) any person found guilty under subsection (a) shall be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court if the victim of the offense is a person under ten years of age or if the victim of the offense is a witness, as defined in section 53a-146, and the actor knew the victim was a witness.

#### **Sec. 53a – 60. Assault in the second degree: Class D or C felony.**

(a) A person is guilty of assault in the second degree when: (1) With intent to cause serious physical injury to another person, the actor causes such injury to such person or to a third person; or (2) with intent to cause physical injury to another person, the actor causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument other than by means of the discharge of a firearm; or (3) the actor recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or (4) for a purpose other than lawful medical or therapeutic treatment, the actor intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to such person, without his consent, a drug, substance or preparation capable of producing the same; or (5) the actor is a parolee from a correctional institution and with intent to cause physical injury to an employee or member of the Board of Pardons and Paroles, the actor causes physical injury to such employee or member; or (6) with intent to cause serious physical injury to another person by rendering such other person unconscious, and without provocation by such other person, the actor causes such injury to such other person by striking such other person on the head; or (7) with intent to cause physical injury to another person, the actor causes such injury to such person by striking or kicking such person in the head while such person is in a lying position.

(b) Assault in the second degree is a class D felony or, if the offense resulted in serious physical injury, a class C felony.

**Sec. 53a – 61. Assault in the third degree: Class A misdemeanor.**

(a) A person is guilty of assault in the third degree when: (1) With intent to cause physical injury to another person, he causes such injury to such person or to a third person; or (2) herecklessly causes serious physical injury to another person; or (3) with criminal negligence, he causes physical injury to another person by means of a deadly weapon, a dangerous instrument or an electronic defense weapon.

(b) Assault in the third degree is a class A misdemeanor and any person found guilty under subdivision (3) of subsection (a) of this section shall be sentenced to a term of imprisonment of one year which may not be suspended or reduced.

**Sec. 53a – 61aa. Threatening in the first degree: Class D or class C felony.**

(a) A person is guilty of threatening in the first degree when such person (1) (A) threatens to commit any crime involving the use of a hazardous substance with the intent to terrorize another person, to cause evacuation of a building, place of assembly or facility of public transportation or otherwise to cause serious public inconvenience, or (B) threatens to commit such crime in reckless disregard of the risk of causing such terror, evacuation or inconvenience;

(2) (A) threatens to commit any crime of violence with the intent to cause evacuation of a building, place of assembly or facility of public transportation or otherwise to cause serious public inconvenience, or (B) threatens to commit such crime in reckless disregard of the risk of causing such evacuation or inconvenience; (3) commits threatening in the second degree as provided in section 53a-62, and in the commission of such offense such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a pistol, revolver, shotgun, rifle, machine gun or other firearm; or (4) violates subdivision (1) or (2) of this subsection with the intent to cause an evacuation of a building or the grounds of a public or nonpublic preschool, school or institution of higher education during preschool, school or instructional hours or when a building or the grounds of such preschool, school or institution are being used for preschool, school or institution- sponsored activities. No person shall be found guilty of threatening in the first degree under subdivision (3) of this subsection and threatening in the second degree upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) For the purposes of this section, "hazardous substance" means any physical, chemical, biological or radiological substance or matter which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health.

(c) Threatening in the first degree is a class D felony, except that a violation of subdivision (4) of subsection (a) of this section is a class C felony.

**Sec. 53a – 62. Threatening in the second degree: Class A misdemeanor or class D felony.**

(a) A person is guilty of threatening in the second degree when: (1) By physical threat, such person intentionally places or attempts to place another person in fear of imminent serious physical injury,

(2) (A) such person threatens to commit any crime of violence with the intent to terrorize another person, or (B) such person threatens to commit such crime of violence in reckless disregard of the risk of causing such terror, or (3) violates subdivision (1) or (2) of this subsection and the person threatened is in a building or on the grounds of a public or nonpublic preschool, school or institution of higher education during preschool, school or instructional hours or when a building or the grounds of such preschool, school or institution are being used for preschool, school or institution-sponsored activities.

(b) Threatening in the second degree is a class A misdemeanor, except that a violation of subdivision (3) of subsection (a) of this section is a class D felony.

### ***Connecticut Penal Code VI: Sex Offenses***

#### **Sec. 53a – 65. Definitions**

As used in this part, except section 53a-70b, the following terms have the following meanings:

- (1) “Actor” means a person accused of sexual assault.
- (2) “Sexual intercourse” means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body.
- (3) “Sexual contact” means any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.
- (4) “Impaired because of mental disability or disease” means that a person suffers from a mental disability or disease which renders such person incapable of appraising the nature of such person's conduct.
- (5) “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling such person's conduct owing to the influence of a drug or intoxicating substance administered to such person without such person's consent, or owing to any other act committed upon such person without such person's consent.
- (6) “Physically helpless” means that a person is (A) unconscious, or (B) for any other reason, is physically unable to resist an act of sexual intercourse or sexual contact or to communicate unwillingness to an act of sexual intercourse or sexual contact.
- (7) “Use of force” means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.
- (8) “Intimate parts” means the genital area or any substance emitted therefrom, groin, anus or any substance emitted therefrom, inner thighs, buttocks or breasts.

(9) "Psychotherapist" means a physician, psychologist, nurse, substance abuse counselor, social worker, clergyman, marital and family therapist, mental health service provider, hypnotist or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.

(10) "Psychotherapy" means the professional treatment, assessment or counseling of a mental or emotional illness, symptom or condition.

(11) "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the patient or former patient is unable to withhold consent to sexual contact by or sexual intercourse with the psychotherapist.

(12) "Therapeutic deception" means a representation by a psychotherapist that sexual contact by or sexual intercourse with the psychotherapist is consistent with or part of the patient's treatment.

(13) "School employee" means: (A) A teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or a private elementary, middle or high school or working in a public or private elementary, middle or high school; or (B) any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education, or (ii) a private elementary, middle or high school, pursuant to a contract with the supervisory agent of such private school.

**Sec. 53a – 70. Sexual assault in the first degree: Class B or A felony.**

(a) A person is guilty of sexual assault in the first degree when such person (1) compels another person to engage in sexual intercourse by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person which reasonably causes such person to fear physical injury to such person or a third person, or

(2) engages in sexual intercourse with another person and such other person is under thirteen years of age and the actor is more than two years older than such person, or (3) commits sexual assault in the second degree as provided in section 53a-71 and in the commission of such offense is aided by two or more other persons actually present, or (4) engages in sexual intercourse with another person and such other person is mentally incapacitated to the extent that such other person is unable to consent to such sexual intercourse. **(b) (1)** Except as provided in subdivision (2) of this subsection, sexual assault in the first degree is a class B felony for which two years of the sentence imposed may not be suspended or reduced by the court or, if the victim of the offense is under ten years of age, for which ten years of the sentence imposed may not be suspended or reduced by the court.

**(2)** Sexual assault in the first degree is a class A felony if the offense is a violation of subdivision

(1) of subsection (a) of this section and the victim of the offense is under sixteen years of age or the offense is a violation of subdivision (2) of subsection (a) of this section. Any person found guilty under said subdivision (1) or (2) shall be sentenced to a term of imprisonment of which ten years of the

sentence imposed may not be suspended or reduced by the court if the victim is under ten years of age or of which five years of the sentence imposed may not be suspended or reduced by the court if the victim is under sixteen years of age.

(3) Any person found guilty under this section shall be sentenced to a term of imprisonment of at least ten years, a portion of which may be suspended, except as provided in subdivisions (1) and (2) of this subsection, or a term of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute a sentence of at least ten years. Notwithstanding the provisions of subsection (a) of section 53a-29 and except as otherwise provided in this subsection, a court may suspend a portion of a sentence imposed under this subsection and impose a period of supervised probation pursuant to subsection (f) of section 53a-29.

**Sec. 53a – 70a. Aggravated sexual assault in the first degree: Class B or A felony.**

(a) A person is guilty of aggravated sexual assault in the first degree when such person commits sexual assault in the first degree as provided in section 53a-70, and in the commission of such offense (1) such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a deadly weapon, (2) with intent to disfigure the victim seriously and permanently, or to destroy, amputate or disable permanently a member or organ of the victim's body, such person causes such injury to such victim, (3) under circumstances evincing an extreme indifference to human life such person recklessly engages in conduct which creates a risk of death to the victim, and thereby causes serious physical injury to such victim, or (4) such person is aided by two or more other persons actually present. No person shall be convicted of sexual assault in the first degree and aggravated sexual assault in the first degree upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) (1) Except as provided in subdivision (2) of this subsection, aggravated sexual assault in the first degree is a class B felony. Any person found guilty under this section of a class B felony shall be sentenced to a term of imprisonment of at least ten years, five years of which may not be suspended or reduced by the court.

(2) Aggravated sexual assault in the first degree is a class A felony if the victim of the offense is under sixteen years of age. Any person found guilty under this section of a class A felony shall be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court, except that, if such person committed sexual assault in the first degree by violating subdivision (1) of subsection (a) of section 53a-70, and the victim of the offense is under sixteen years of age, twenty years of the sentence imposed may not be suspended or reduced by the court. Notwithstanding the provisions of subsection (a) of section 53a-29 and except as otherwise provided in this subsection, a court may suspend a portion of a sentence imposed under this subdivision and impose a period of probation pursuant to subsection (f) of section 53a-29, or may impose a term of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28.

**Sec. 53a – 70b. Sexual assault in spousal or cohabiting relationship: Class B felony.**

(a) For the purposes of this section: (1) "Sexual intercourse" means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body; and (2) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.

(b) No spouse or cohabitor shall compel the other spouse or cohabitor to engage in sexual intercourse by the use of force against such other spouse or cohabitor, or by the threat of the use of force against such other spouse or cohabitor, which reasonably causes such other spouse or cohabitor to fear physical injury.

(c) Any person who violates any provision of this section shall be guilty of a class B felony for which two years of the sentence imposed may not be suspended or reduced by the court.

**Sec. 53a – 70c. Aggravated sexual assault of a minor: Class A felony.**

(a) A person is guilty of aggravated sexual assault of a minor when such person commits a violation of subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-71, 53a-86, 53a-87 or 53a-196a and the victim of such offense is under thirteen years of age, and (1) such person kidnapped or illegally restrained the victim, (2) such person stalked the victim, (3)

such person used violence to commit such offense against the victim, (4) such person caused serious physical injury to or disfigurement of the victim, (5) there was more than one victim of such offense under thirteen years of age, (6) such person was not known to the victim, or (7) such person has previously been convicted of a violent sexual assault.

(b) Aggravated sexual assault of a minor is a class A felony and any person found guilty under this section shall, for a first offense, be sentenced to a term of imprisonment of twenty-five years which may not be suspended or reduced by the court and, for any subsequent offense, be sentenced to a term of imprisonment of fifty years which may not be suspended or reduced by the court.

**Sec. 53a – 71. Sexual assault in the second degree: Class C or B felony.**

(a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person; or (2) such other person is impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of

therapeutic deception; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) the actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age; or (11) such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

**Sec. 53a – 72a. Sexual assault in the third degree: Class D or C felony.**

(a) A person is guilty of sexual assault in the third degree when such person (1) compels another person to submit to sexual contact (A) by the use of force against such other person or a third person, or (B) by the threat of use of force against such other person or against a third person, which reasonably causes such other person to fear physical injury to himself or herself or a third person, or (2) engages in sexual intercourse with another person whom the actor knows to be related to him or her within any of the degrees of kindred specified in section 46b-21.

(b) Sexual assault in the third degree is a class D felony or, if the victim of the offense is under sixteen years of age, a class C felony.

**Sec. 53a – 73a. Sexual assault in the fourth degree: Class A misdemeanor or class D felony.**

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) mentally incapacitated or impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual contact, or (D) physically helpless, or (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal or dead body; or (4) such person is a psychotherapist and subjects

another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or (5) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or (6) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (7) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (8) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age; or (9) such person subjects another person to sexual contact who is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the fourth degree is a class A misdemeanor or, if the victim of the offense is under sixteen years of age, a class D felony.

***Connecticut Penal Code XIV: Breach of the Peace, Harassment and Related Offenses***

**Sec. 53a – 181c. Stalking in the first degree: Class D felony.**

(a) A person is guilty of stalking in the first degree when such person commits stalking in the second degree as provided in section 53a-181d and (1) such person has previously been convicted of a violation of section 53a-181d, or (2) such conduct violates a court order in effect at the time of the offense, or (3) the other person is under sixteen years of age.

(b) Stalking in the first degree is a class D felony.

**Sec. 53a – 181d. Stalking in the second degree: Class A misdemeanor.**

(a) For the purposes of this section, “course of conduct” means two or more acts, including, but not limited to, acts in which a person directly, indirectly or through a third party, by any action, method, device or means, (1) follows, lies in wait for, monitors, observes, surveils, threatens, harasses, communicates with or sends unwanted gifts to, a person, or (2) interferes with a person's property.

(b) A person is guilty of stalking in the second degree when: (1) Such person knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for such person's physical safety or the physical safety of a third person; or (2) Such person intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person that would cause a reasonable person to fear that such person's employment, business or career is threatened, where (A) such conduct consists of the actor telephoning to, appearing at or initiating communication or contact at such other person's place of employment or business, provided the actor was previously

and clearly informed to cease such conduct, and such conduct does not consist of constitutionally protected activity. Stalking in the second degree is a class A misdemeanor.

**Sec. 53a – 181e. Stalking in the third degree: Class B misdemeanor.**

(a) A person is guilty of stalking in the third degree when he recklessly causes another person to reasonably fear for his physical safety by willfully and repeatedly following or lying in wait for such other person.

(b) Stalking in the third degree is a class B misdemeanor.

**Sec. 53a – 181f. Electronic stalking: Class B misdemeanor.**

(a) A person is guilty of electronic stalking when such person recklessly causes another person to reasonably fear for his or her physical safety by willfully and repeatedly using a global positioning system or similar electronic monitoring system to remotely determine or track the position or movement of such other person.

(b) Electronic stalking is a class B misdemeanor.

***Connecticut Penal Code XVI: Loitering in or about School Grounds. Public Indecency.***

**Sec. 53a – 186. Public indecency: Class B misdemeanor.**

(a) A person is guilty of public indecency when he performs any of the following acts in a public place: (1) An act of sexual intercourse as defined in subdivision (2) of section 53a-65; or (2) a lewd exposure of the body with intent to arouse or to satisfy the sexual desire of the person; or

(3) a lewd fondling or caress of the body of another person. For the purposes of this section, “public place” means any place where the conduct may reasonably be expected to be viewed by others.

(b) Public indecency is a class B misdemeanor.

***Connecticut Penal Code XVII: Tampering with Private Communications, Eavesdropping, Voyeurism, and Unlawful Dissemination of Intimate Images***

**Sec. 53a – 189a. Voyeurism: Class D or C felony.**

(a) A person is guilty of voyeurism when, (1) with malice, such person knowingly photographs, films, videotapes or otherwise records the image of another person (A) without the knowledge and consent of such other person, (B) while such other person is not in plain view, and (C) under circumstances where such other person has a reasonable expectation of privacy, (2) with intent to arouse or satisfy the sexual desire of such person or any other person, such person knowingly photographs, films, videotapes or otherwise records the image of another person (A) without the knowledge and consent of such other person, (B) while such other person is not in plain view, and (C) under circumstances where such other person has a reasonable expectation of privacy, (3) with the intent to arouse or satisfy the sexual desire of such person, commits simple trespass, as provided in section 53a-110a, and observes, in other than a casual or cursory manner, another person (A) without the knowledge or consent of such other person, (B) while such other person is inside a dwelling, as defined in section 53a-100, and not in plain view, and

(B) under circumstances where such other person has a reasonable expectation of privacy, or (4) with intent to arouse or satisfy the sexual desire of such person or any other person, such person knowingly photographs, films, videotapes or otherwise records the genitals, pubic area or buttocks of another person or the undergarments or stockings that clothe the genitals, pubic area or buttocks of another person (A) without the knowledge and consent of such other person, and (B) while such genitals, pubic area, buttocks, undergarments or stockings are not in plain view.

(b) Voyeurism is (1) a class D felony for a first offense, except as provided in subdivision (3) of this subsection, (2) a class C felony for any subsequent offense, and (3) a class C felony for a first offense when (A) such person has been previously convicted of an offense enumerated in subsection (f) of section 53a-29, or (B) the intended subject of the offense is a person under sixteen years of age.

(c) Notwithstanding the provisions of section 54-193, no person may be prosecuted for an offense under subdivision (1), (2) or (4) of subsection (a) of this section except within five years from the date of the offense, or within five years from the date the subject of the offense discovers the existence of the photograph, film, videotape or other recording that constitutes a violation of subdivision (1), (2) or (4) of subsection (a) of this section, whichever is later.

**Sec. 53a – 189b. Disseminating voyeuristic material: Class D felony.**

(a) A person is guilty of disseminating voyeuristic material when such person disseminates a photograph, film, videotape or other recorded image of another person without the consent of such other person and knowing that such photograph, film, videotape or image was taken, made or recorded in violation of section 53a-189a.

(b) Disseminating voyeuristic material is a class D felony.

**Sec. 53a – 189c. Unlawful dissemination of an intimate image: Class A misdemeanor.**

(a) A person is guilty of unlawful dissemination of an intimate image when (1) such person intentionally disseminates by electronic or other means a photograph, film, videotape or other recorded image of (A) the genitals, pubic area or buttocks of another person with less than a fully opaque covering of such body part, or the breast of such other person who is female with less than a fully opaque covering of any portion of such breast below the top of the nipple, or (B) another person engaged in sexual intercourse, as defined in section 53a-193, (2) such person disseminates such image without the consent of such other person, knowing that such other person understood that the image would not be so disseminated, and (3) such other person suffers harm as a result of such dissemination. For purposes of this subsection, “disseminate” means to sell, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, present, exhibit, advertise or otherwise offer.

(b) The provisions of subsection (a) of this subsection shall not apply to: (1) Any image described in subsection (a) of this section of such other person if such image resulted from voluntary exposure or engagement in sexual intercourse by such other person, in a public place, as defined in section 53a-181, or in a commercial setting; (2) Any image described in subsection (a) of this section of such other person, if such other person is not clearly identifiable; or (3) Any image described in subsection (a) of this section of such other person, if the dissemination of such image serves the public interest.

(c) Unlawful dissemination of an intimate image is a class A misdemeanor.

(d) Nothing in this section shall be construed to impose liability on the provider of an interactive computer service, as defined in 47 USC 230, an information service, as defined in 47 USC 153, or a telecommunications service, as defined in section 16-247a, for content provided by another person.

***Connecticut Penal Code XIX: Coercion***

**Sec. 53a – 192. Coercion: Class A misdemeanor or class D felony.**

(a) A person is guilty of coercion when he compels or induces another person to engage in conduct which such other person has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which such other person has a legal right to engage, by means of instilling in such other person a fear that, if the demand is not complied with, the actor or another will: (1) Commit any criminal offense; or (2) accuse any person of a criminal offense; or

(3) expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair any person's credit or business repute; or (4) take or withhold action as an official, or cause an official to take or withhold action.

(b) It shall be an affirmative defense to prosecution based on subdivision (2), (3) or (4) of subsection (a) of this section that the actor believed the accusation or secret to be true or the proposed official action justified and that his purpose was limited to compelling the other person to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure or proposed official action, as by desisting from further misbehavior or making good a wrong done.

(c) Coercion is a class A misdemeanor except, if the threat is to commit a felony, coercion is a class D felony.