

Departmental Policy Title	Title IX Sexual Harassment in Education Policy - GME	Policy ID	24513
Keywords	title, IX, nine, sexual, harassment, assault, dating, domestic, violence, stalking		
Department	Graduate Medical Education (GME)		

I. Purpose of Policy

Dartmouth-Hitchcock is committed to providing a safe and collegial work environment in which all individuals are treated with mutual respect and dignity and that is free from discrimination, harassment, and retaliation.

Title IX of the Educational Amendments of 1972 (“Title IX”) prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The purpose of this policy is to express Dartmouth-Hitchcock’s commitment to equal opportunity in its educational programs and activities and to establish a policy to address reports of sexual harassment in those programs and activities consistent with Dartmouth-Hitchcock’s obligations under Title IX. The procedures that Dartmouth-Hitchcock will follow upon receipt of a report of Title IX Prohibited Conduct (defined below) are set forth in Dartmouth-Hitchcock’s Title IX Grievance Procedure.

II. Policy Scope

This policy applies to the following persons at Dartmouth-Hitchcock:

- All Dartmouth-Hitchcock employees whose job duties and responsibilities directly relate to the functioning and operation of any graduate medical education (“GME”) residency or fellowship program, as determined by Dartmouth-Hitchcock.
- All interns, residents, and fellows currently enrolled in any Dartmouth-Hitchcock GME program.
- Applicants for employment for admission into GME residency and fellowship programs.
- Third parties (such as non-employee physicians, patients, contractors, vendors, and visitors) when participating in any GME residency or fellowship program.

The Title IX regulations define “sexual harassment” to include three types of misconduct on the basis of sex which jeopardize the equal access to education that Title IX is designed to protect. These types of misconduct include: any instance of quid pro quo harassment by a Dartmouth-Hitchcock employee; any conduct on the basis of sex that in the view of a reasonable person is so severe and pervasive and objectively offensive that it effectively denies a person equal access to a Dartmouth-Hitchcock education program or activity; and any instance of sexual assault, dating violence, domestic violence, or stalking (collectively, “Title IX Prohibited Conduct”). The specific types of Title IX Prohibited Conduct are more fully defined in Section III of this policy.

This policy covers Title IX Prohibited Conduct that takes place within the scope of any Dartmouth-Hitchcock GME residency and fellowship program. This shall include locations, events, or circumstances over which Dartmouth-Hitchcock exercises substantial control over both the Respondent (defined below)

and the context in which the Title IX Prohibited Conduct occurs. This includes activities occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of Dartmouth-Hitchcock's programs and activities over which Dartmouth-Hitchcock has substantial control. This policy does not apply to conduct that occurs outside of Dartmouth-Hitchcock facilities, unless Dartmouth-Hitchcock exercises substantial control over such premises, nor does it apply to complaints arising outside of the context of Dartmouth-Hitchcock's education programs or activities. Conduct that falls outside the scope of this policy may still be prohibited by Dartmouth-Hitchcock policies, such as the Dartmouth-Hitchcock Code of Ethical Conduct and/or Non-Discrimination and Anti-Harassment Policy, and may be addressed through other Dartmouth-Hitchcock policies and procedures.

Non-Discrimination in Application

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

III. Definitions

Title IX Prohibited Conduct: For the purposes of this Policy, "Title IX Prohibited Conduct" includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct ("Quid Pro Quo Sexual Harassment").
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity ("Hostile Environment Sexual Harassment").
3. Sexual assault, which includes having or attempting to have sexual contact with another individual without consent (see below for definition of consent). Sexual contact includes:
 - a. Sexual intercourse (anal, oral or vaginal), including penetration, no matter how slight, with a body part (e.g., penis, finger, hand, or tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or
 - b. Sexual touching, including, but not limited to, kissing, intentional contact with the breasts, buttocks, groin, genitals or other intimate part of an individual's body for the purpose of sexual gratification and without the individual's consent.
4. Dating violence, which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence, which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under New Hampshire's domestic or family violence laws or by any other person against an

adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New Hampshire.

6. Stalking, meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress. Course of conduct means two or more instances including but not limited to unwelcome acts in which an individual 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. Substantial emotional distress means significant mental suffering or anguish. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

Note that conduct that does not meet one or more of these criteria may still be prohibited under Dartmouth-Hitchcock's other policies, such as the Dartmouth-Hitchcock Code of Ethical Conduct, Disruptive Behavior Policy, and/or Non-Discrimination and Anti-Harassment Policy.

Consent: Consent is the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Both words and actions can express consent, but they must create mutually understood permission to engage in the sexual activity. Consent to one form of sexual activity does not, by itself, constitute consent to another form of sexual activity. Consent may not be inferred from silence alone. Consent may be withdrawn at any time through clear words or actions. Once consent is withdrawn, the sexual activity must cease immediately. Consent is absent when force or coercion are used, when an individual is incapacitated, or when a person is too young under applicable law to consent to the sexual activity.

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

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

Incapacitation: An individual who is incapacitated lacks the ability to make informed judgments and cannot consent to sexual contact. Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act.

Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication. Where alcohol or other drugs are involved, evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.

Complainant: Any individual who has reported being or is alleged to be the victim of conduct that could constitute Title IX Prohibited Conduct. Use of this term does not necessarily indicate that this person either reported the conduct or requested that Dartmouth-Hitchcock pursue the matter.

Confidential Resource: A person who by law is exempted from the obligation to report an allegation of conduct that could constitute Title IX Prohibited Conduct to any entity, including Dartmouth-Hitchcock's Title IX Coordinator or law enforcement in circumstances in which the reported conduct could be a crime (except, as to law enforcement, if the Complainant is a minor or if there is a belief that there is an imminent threat of harm to self or others). Professionals that may be Confidential Resources can include, without limitation, medical providers, mental health providers, ordained clergy, rape crisis counselors, and attorneys.

Formal Complaint: A document, including an electronic submission, filed and signed by a Complainant or filed and signed by the Title IX Coordinator alleging Title IX Prohibited Conduct against a Respondent and requesting that Dartmouth-Hitchcock investigate the allegations.

Resident: Any physician in an accredited graduate medical education program, including interns, residents, and fellows.

Respondent: Any individual alleged to have engaged in the Title IX Prohibited Conduct.

Responsible Employee: An employee who has the authority to address reports of prohibited conduct as defined in this policy, or who a participant in an educational program or activity could reasonably believe has this authority. All GME program directors, program coordinators, clinical instructors, clinical educators, preceptors and faculty members are Responsible Employees for purposes of this policy.

Retaliation: Any adverse action or threat taken or made against an individual for making a report of Title IX Prohibited Conduct or participating in any investigation or proceeding related to this policy. Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy, such as seeking services, receiving protective measures and accommodations, reporting Title IX Prohibited Conduct, and/or participating in an investigation and grievance process. Retaliation includes such conduct through associates or agents of a Complainant, Respondent, or participant in any investigation or proceeding related to this policy. Complaints alleging retaliation may be filed in accordance with the Title IX Grievance Procedures.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Dartmouth-Hitchcock educational programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Dartmouth-Hitchcock educational environment, or deter Title IX Prohibited Conduct. Supportive measures may include extensions of deadlines, modifications of schedules, security escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of Dartmouth-Hitchcock facilities, and other similar measures.

IV. Title IX Coordinator

Dartmouth-Hitchcock has a designated Title IX Coordinator with the responsibility to oversee response to reports of Title IX Prohibited Conduct and to identify and address any related patterns or systemic problems, who may be reached as follows:

Dwayna M. Covey, M.Ed
Vice President, Center for Learning & Professional Development
Title IX Coordinator
Office of Graduate Medical Education
Dartmouth-Hitchcock Medical Center
One Medical Center Drive
Lebanon, NH 03756
(603) 650-5749
TitleIX@hitchcock.org

Questions or concerns regarding Title IX, sex discrimination, sexual harassment, sexual violence or retaliation in Dartmouth-Hitchcock's educational programs and activities may be directed to the Title IX Coordinator.

The Title IX Coordinator is responsible for:

- a. Coordinating Dartmouth-Hitchcock's Title IX education and training programs.
- b. Receiving all reports of Title IX Prohibited Conduct under this policy and related procedures.
- c. Keeping accurate, confidential records of all reports for the required time period according to Dartmouth-Hitchcock's Trainee Record Retention Policy or guidelines.
- d. Monitoring Dartmouth-Hitchcock's compliance in matters related to Title IX.

V. Reporting Obligations

Dartmouth-Hitchcock is required to take responsive action when it has notice of potential Title IX Prohibited Conduct. Notice occurs when the Title IX Coordinator receives a report from a Complainant, or any other person, alleging Title IX Prohibited Conduct as defined under this policy. Prompt reporting allows Dartmouth-Hitchcock to provide resources to the Complainant and facilitates an appropriate response.

Any person may report Title IX Prohibited Conduct (whether or not the person reporting is the person alleged to be the victim of conduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, but delayed reports may limit the availability of evidence and witnesses, and make it more difficult for Dartmouth-Hitchcock to respond.

Reports may also be made through Dartmouth-Hitchcock's Compliance Hotline, to law enforcement, or to a state or federal agency with jurisdiction over the relevant educational program or activity, including the U.S. Department of Education Office of Civil Rights.

Duty to Report

All Responsible Employees have a duty to promptly contact the Title IX Coordinator after becoming aware of an incident or allegation of Title IX Prohibited Conduct, even if a Complainant requests confidentiality. A Responsible Employee's report cannot be anonymous.

All other Dartmouth-Hitchcock employees are strongly encouraged to report to the Title IX Coordinator any information of any incident of Title IX Prohibited Conduct. Dartmouth-Hitchcock also strongly encourages all third parties and/or members of the Dartmouth-Hitchcock community to report any information of any incident of alleged Title IX Prohibited Conduct.

Dartmouth-Hitchcock employees who learn of Title IX Prohibited Conduct when acting in a professional role as a Confidential Resource are not required to notify the Title IX Coordinator about information that their professional license requires them to keep confidential.

VI. Privacy and Confidentiality

If the Title IX Coordinator becomes aware of a report of alleged Title IX Prohibited Conduct, Dartmouth-Hitchcock is obligated to review all available information and determine whether to proceed with an investigation.

In this context, Dartmouth-Hitchcock will maintain the confidentiality of such reports and respect the privacy of the Complainant to the extent reasonably possible consistent with its responsibility to provide a safe educational and work environment, to provide a prompt, equitable and fair response, investigation and resolution of the report and to comply with applicable laws related to reporting.

Should a Complainant request that Dartmouth-Hitchcock not disclose the Complainant's identity to the Respondent, the Title IX Coordinator will inform the Complainant that Dartmouth-Hitchcock's ability to respond to the allegations and investigate may be limited if the request is granted. A Complainant who initially requests confidentiality is not prohibited from later requesting that Dartmouth-Hitchcock conduct a full investigation.

Whether or not the Complainant requests confidentiality, Dartmouth-Hitchcock will keep private the identity of all Complainants, Respondents, and witnesses, except as necessary for purposes of the assessment, investigation, and resolution of the report.

VII. Applicable Procedures under this Policy

In response to a report of Title IX Prohibited Conduct, the report may be resolved by:

1. The imposition of Supportive Measures only;
2. The filing of a Formal Complaint by the Complainant;
3. The filing of a Formal Complaint by the Title IX Coordinator; or
4. An informal resolution voluntarily and mutually agreed after the filing of a Formal Complaint.

A Complainant is always entitled to reasonably available Supportive Measures, regardless of whether a formal or informal resolution process is initiated. Should a Complainant or the Title IX Coordinator choose to file a Formal Complaint, Dartmouth-Hitchcock will initiate an investigation in accordance with its Title IX Grievance Procedure to determine if there is sufficient evidence to establish that this policy has been

violated. The nature of the reported conduct, the location of the reported conduct, and the role of the Respondent determines the procedures that will be used to investigate and resolve Formal Complaints. The Title IX Grievance Procedure addresses the specific processes for informal resolution and formal investigation of reports and the rights of parties in a resolution process.

VIII. References

Title IX of the Education Amendments of 1972 (as amended by the 1988 Civil Rights Restoration Act)

34 CFR, Part 106

Responsible Owner:	Graduate Medical Education (GME)	Contact:	Karen Miller
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