

<b>Dept. Procedure Title</b>	<b>Title IX Sexual Harassment in Education Procedure - GME</b>	<b>Procedure ID</b>	<b>25320</b>
<b>Keywords</b>	<b>Title, IX, nine, 9, sexual, harassment, assault, dating, violence, domestic, violence, stalking</b>		
<b>Department</b>	<b>Graduate Medical Education (GME)</b>		

## I. Purpose of Procedure

This document outlines the procedures that Dartmouth-Hitchcock shall follow when in receipt of a report of Title IX Prohibited Conduct (the “Title IX Procedures”) as defined by Dartmouth-Hitchcock’s Title IX Sexual Harassment in Education Policy – GME (“Title IX Policy”). This procedure is intended to comply with Title IX’s Requirement for a Grievance Procedure. Capitalized terms not defined herein shall have the same meaning as set forth in the Title IX Policy.

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. 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>.

## II. Receipt of a Report of Title IX Prohibited Conduct

### A. Offer of Supportive Measures

Upon receipt of notice of a report of Title IX Prohibited Conduct (which may come from any individual), the Title IX Coordinator will promptly contact the Complainant and inform the Complainant of the following:

- Availability of Supportive Measures, including that the Supportive Measures are available with or without filing a Formal Complaint.
- The availability of confidential counseling resources through Dartmouth-Hitchcock’s Employee Assistance Program.
- How to file a Formal Complaint, as well as describing the options of the Formal and Informal Resolution Processes.
- That, if the reported conduct could be a crime, the Complainant has the right but not the obligation to file a police report, and that if there is a police investigation, the Title IX Coordinator will coordinate with law enforcement.
- The importance of preserving evidence and identification and location of Witnesses.

If on the face of the report, the Title IX Coordinator determines that the conduct alleged does not fall within the scope of the Title IX Policy, the Title IX Coordinator shall inform the Complainant that the matter may be referred for review under another Dartmouth-Hitchcock process, as further described in Sections VI(A)(i) and VIII(A)(iii).

Even if the matter is referred, the Complainant will still receive an offer of Supportive Measures. Supportive Measures will be different for every matter and will be based on individualized review. Supportive Measures are non-disciplinary and non-punitive and may include, but are not limited to: counseling, extensions of deadlines, modifications of work or class schedules, escort services, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and/or monitoring of certain areas of Dartmouth-Hitchcock's facilities, and more. Dartmouth-Hitchcock will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of Dartmouth-Hitchcock to provide the Supportive Measures.

The Title IX Coordinator or their designee is responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures.

## **B. Administrative Leave Pending Investigation**

Based on a report or Formal Complaint of Title IX Prohibited Conduct, the Title IX Coordinator, in consultation with others as appropriate, may undertake an individualized safety and risk analysis to determine whether the allegations indicate the Respondent poses an immediate threat to the physical health or safety of any Resident or other individual arising from the allegations of Title IX Prohibited Conduct. If the Title IX Coordinator determines that immediate removal is appropriate, the Respondent will be provided with written notice and placed on administrative leave, with or without pay as appropriate depending upon the circumstances.

## **C. Timeframe for Resolution**

Dartmouth-Hitchcock will seek to complete the appropriate resolution process as promptly as possible, consistent with the need to conduct sensitive and informed fact-gathering to ensure an equitable resolution. This Title IX Procedure designates reasonably prompt timeframes for the major stages of the investigation and resolution process (generally set forth in business days unless otherwise noted) but Dartmouth-Hitchcock may extend any timeframe in these Title IX Procedures for good cause. Any extension may be required for good cause to ensure the integrity and thoroughness of the investigation; to comply with a request by law enforcement; in response to the unavailability of the parties or witnesses; or for other legitimate reasons, such as the complexity of the investigation, volume of evidence gathered, number of witnesses, severity and extent of the alleged conduct, or the need for language assistance or accommodation of disabilities.

While either party may submit a request to extend the timeframes outlined in these Title IX Procedures, Dartmouth-Hitchcock cannot unduly or unreasonably delay the prompt resolution of a report or Formal Complaint. The Title IX Coordinator, in consultation with the Investigator, has the authority to determine whether an extension is required or warranted under the circumstances.

### **III. Filing a Formal Complaint**

Following the receipt of a report of Title IX Prohibited Conduct, the Title IX Procedures will not move forward until a Formal Complaint is filed. A Formal Complaint may be filed one of two ways:

#### **A. By Complainant**

A Complainant may complete and sign a Formal Complaint alleging Title IX Prohibited Conduct against a Respondent and requesting that Dartmouth-Hitchcock investigate the allegation(s). Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Dartmouth-Hitchcock, including as an employee. For complainants who do not meet this criteria, Dartmouth-Hitchcock may utilize its other policies to address the conduct.

#### **B. By Title IX Coordinator**

The Title IX Coordinator may complete and sign a Formal Complaint. A Complainant may request that Dartmouth-Hitchcock not proceed with a Formal Complaint, in which case the Title IX Coordinator may choose to respect the Complainant's wishes unless there is a determination that signing a Formal Complaint over the wishes of the Complainant is warranted under the circumstances known at the time. Factors that may be relevant for the Title IX Coordinator to consider in making this determination may include, without limitation:

- The totality of the known circumstances.
- The status of the Respondent and whether the Respondent has authority over Residents and/or other staff.
- Whether there have been other reports of Title IX Prohibited Conduct relating to the Respondent, and/or the risk that the Respondent may commit additional acts of Title IX Prohibited Conduct, taking into consideration, among other matters, any known history of arrests, violence, and whether multiple Respondents were involved in the reported incident(s).
- The seriousness of the alleged Title IX Prohibited Conduct (e.g., whether the report includes alleged conduct involving physical restraints, assault, or use of a weapon).
- Whether there is a likelihood that the Respondent may pose a danger to the Complainant, patients, employees, or other members of the Dartmouth-Hitchcock community.
- The respective ages and roles of the Complainant and Respondent.
- Dartmouth-Hitchcock's obligation to provide a safe and non-discriminatory environment.
- Fairness considerations for both the Complainant and the Respondent.
- Whether the report of Title IX Prohibited Conduct can be effectively addressed through another type of intervention.
- Dartmouth-Hitchcock's ability to obtain relevant evidence.

Where the balance of factors results in the Title IX Coordinator's decision to file a Formal Complaint over the wishes of the Complainant, the Title IX Coordinator will inform the Complainant in writing about the chosen course of action.

### **C. Consolidation of Formal Complaints**

Dartmouth-Hitchcock may consolidate Formal Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Title IX Prohibited Conduct arise out of the same facts or circumstances. All parties will receive simultaneous, timely notification of any such consolidation.

## **IV. Receipt of Formal Complaint**

### **A. Notice of Allegations**

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide a Notice of Allegations as soon as practicable to the parties for whom Dartmouth-Hitchcock knows their identity, which shall include the following details:

- A description of the allegations including sufficient details known at the time the Notice is issued such as: i) the identities of the parties involved in the incident(s); ii) the conduct alleged constituting the Title IX Prohibited Conduct; and iii) the date and location of the alleged incident(s).
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which Dartmouth-Hitchcock does not intend to rely in reaching a determination of responsibility, and evidence that both tends to prove and disprove the allegations, whether obtained from a party or other source;
- A copy of the Title IX Sexual Harassment in Education Policy.
- A copy of the Title IX Grievance Procedures.

The parties will be notified by their Dartmouth-Hitchcock email accounts or by any other reasonable means.

The Notice of Allegations will be provided with sufficient time for the Respondent to respond and prepare for any investigative interviews.

### **B. Ongoing Notice Requirement**

If, in the course of an Investigation, Dartmouth-Hitchcock decides to investigate allegations about the Complainant or Respondent that were not included in the initial Notice of Formal Complaint, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

## **V. Rights and Responsibilities of Parties and Witnesses**

During an Investigation under these Title IX Procedures, the parties and witnesses will have the following responsibilities and rights.

### **A. Responsibilities of the Parties and Witnesses**

- The responsibility to be truthful, to cooperate with the investigative process, and to follow the directions of Dartmouth-Hitchcock staff responsible for administering this process.
- The responsibility not to retaliate against any individual who has reported Title IX Prohibited Conduct or who has participated as a party or witness in the process.

### **B. Rights of all Parties and Witnesses**

- The right to be protected from retaliation when reporting Title IX Prohibited Conduct or participating as a party or witness in the process.
- The right to be treated equitably and receive the same equitable access to Supportive Measures.
- The right to have each phase of the Title IX Procedures completed within a reasonably prompt timeframe.
- The right to participate in the investigation, including by identifying fact witnesses and relevant information and evidence to the Investigator.
- The right to receive written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate.

### **C. Rights of the Complainant**

- The right to be accompanied by a support person or advisor of their choice throughout the process, subject to Dartmouth-Hitchcock's right to remove a support person or advisor from a proceeding if they become disruptive or does not abide by the parameters set forth in this Title IX Procedures.
- The right to inspect and review evidence obtained as part of the investigation that is directly related to the allegations.
- The right not to have their prior sexual behavior considered by decision makers except for certain limited purposes (see "Rape Shield" privilege described below).

### **D. Rights of the Respondent**

- The right to receive a Notice of Formal Complaint that provides sufficient detail about the allegations and the applicable Dartmouth-Hitchcock policies for the Respondent to be able to respond and to understand the scope of the Investigation.
- The right to decline to give a statement about the allegations.
- The right to have a support person or advisor of their choice throughout the process, subject to Dartmouth-Hitchcock's right to remove a support person or advisor from a proceeding if they become disruptive or does not abide by the parameters set forth in this Title IX Procedures.

- The right to inspect and review evidence obtained as part of the investigation that is directly related to the allegations.
- The right not to have any disciplinary action imposed before a finding of responsibility in accordance with this Title IX Procedure.
- The right to be presumed not responsible for the alleged Title IX Prohibited Conduct until a Written Determination of Responsibility is made at the conclusion of the Investigation.

## **VI. Initial Assessment of Formal Complaint**

The Title IX Coordinator shall make an initial assessment as to whether the Formal Complaint on its face alleges an act of Title IX Prohibited Conduct and meets the jurisdictional requirements of Title IX Prohibited Conduct. If it does not, then Dartmouth-Hitchcock will dismiss the matter as described below.

### **A. Dismissal of Formal Complaint**

#### **i. Dismissal Prior to Investigation**

Dartmouth-Hitchcock shall dismiss the Formal Complaint if, following the assessment above, the Title IX Coordinator determines that the conduct alleged in the Formal Complaint:

- Would not constitute Title IX Prohibited Conduct even if true.
- Took place outside the scope of the Dartmouth-Hitchcock GME Residency and fellowship program.
- Did not occur against a person in the United States.
- Did not involve a Complainant currently participating in or attempting to participate in a Dartmouth-Hitchcock GME residency and fellowship program.

Dartmouth-Hitchcock may dismiss the Formal Complaint if, after the initial assessment or at any time during the investigation or grievance, process, any of the following occur:

- A Complainant notified the Title IX Coordinator in writing that they would like to withdraw their Formal Complaint, or any of the allegations therein;
- The Respondent is no longer employed by Dartmouth-Hitchcock or under Dartmouth-Hitchcock's control; or
- There is not enough information to carry out these Title IX Procedures (for example, the identities of the people involved are unknown).

If the Formal Complaint alleges multiple claims that arise out of the same facts and circumstances, and the Title IX Coordinator determines that some conduct is covered under Title IX and some is not, all claims may proceed together to be resolved under this Title IX Procedure. If, however, some claims do not arise out of the same facts and circumstances, are not covered by Title IX, and could violate other Dartmouth-Hitchcock policies, that conduct will be dismissed and referred to another Dartmouth-Hitchcock process, and the Title IX Procedure will proceed with respect to the covered conduct only. Any conduct dismissed under this Title IX Procedure that could constitute a violation of any other Dartmouth-Hitchcock policy may be handled through other applicable Dartmouth-Hitchcock processes.

## **ii. Notice of Dismissal**

Upon dismissal, Dartmouth-Hitchcock shall promptly send a Notice of Dismissal including the reason(s) therefor simultaneously to the parties through their Dartmouth-Hitchcock email accounts. It is the responsibility of parties to maintain and regularly check their Dartmouth-Hitchcock email accounts. The Notice of Dismissal shall provide Complainant with the option to file an appeal in accordance with Section IX.

## **B. Informal Resolution**

### **i. Informal Resolution Process**

At any time after a Formal Complaint is filed, the Title IX Coordinator may, in their discretion, choose to offer and facilitate an Informal Resolution process, so long as both parties give voluntary, informed, written consent to attempt Informal Resolution. Dartmouth-Hitchcock may not require the parties to participate in an Informal Resolution process or require as a condition of employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of Formal Complaints of Title IX Prohibited Conduct. Any person who facilitates an Informal Resolution will be experienced and trained in dispute resolution and shall be familiar with these Title IX Procedures.

Informal Resolution is available only once a Formal Complaint has been filed, prior to a Written Determination of Responsibility, and if the Complainant, Respondent and Dartmouth-Hitchcock voluntarily consent to the process in writing. Informal Resolution is not available in cases in which a Dartmouth-Hitchcock employee is alleged to have engaged in Title IX Prohibited Conduct against a Resident.

Informal Resolution may involve agreement to pursue targeted or broad-based educational programming or training; requiring counseling; making academic accommodations for Resident Complainants or providing workplace accommodations; and/or any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. Informal Resolution may be used to impose agreed-upon disciplinary actions or other sanctions.

Any person who facilitates an Informal Resolution will be trained on the definition of Title IX Prohibited Conduct; the scope of Dartmouth-Hitchcock's education program or activity; how to conduct an Informal Resolution process, including how to serve impartially, and be free from conflicts of interest or bias for or against either party.

### **ii. Notice to Parties**

If the parties are interested in pursuing Informal Resolution, the Title IX Coordinator will send written notice to the parties describing:

- The allegations at issue.
- The requirements of the Informal Resolution.
- The circumstances under which the parties are precluded from resuming a Formal Complaint arising from the same allegations.
- The right to end the Informal Resolution process at any time prior to the resolution and to resume the Formal Complaint process.



- The consequences resulting from participating in the Informal Resolution, including that the records and communications created or maintained as part of the Informal Resolution process may be viewed by parties, or later used or considered in the Formal Complaint process.

### **iii. Agreement by the Parties; Timeline**

If an agreement acceptable to Dartmouth-Hitchcock, the Complainant, and the Respondent is reached through Informal Resolution, the matter is considered to be resolved, and the parties will be precluded from filing another Formal Complaint arising from the same set of facts or circumstances. Prior to reaching a resolution, any party can withdraw from the Informal Resolution process and resume the Formal Complaint process. The Title IX Coordinator will maintain records of all reports and conduct referred for Informal Resolution, which will typically be complete within sixty (60) calendar days of the initial report.

## **VII. Investigation**

For any allegations in any Formal Complaint not subject to dismissal following the initial assessment outlined above, Dartmouth-Hitchcock will conduct a prompt and equitable Investigation to gather information relevant to the determination of whether there is sufficient information, by a preponderance of the evidence (defined below), to determine whether a violation of the Policy occurred.

During the Investigation, both the Complainant and Respondent have equitable opportunities, including the opportunity to receive a written notice of interviews; to participate in the investigation; to review and present information and evidence; to be accompanied by an advisor of their choice to any interview or meeting; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the outcome, sanction and rationale; and to appeal the outcome.

Dartmouth Hitchcock, and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of the Title IX Sexual Harassment Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from Dartmouth-Hitchcock and does not indicate responsibility.

### **A. Investigation Process**

- i. **Investigator** – When the decision is made to initiate an Investigation, the Title IX Coordinator will designate an individual to conduct the Investigation of a Formal Complaint. Depending upon the complexity of the issues, the Title IX Coordinator may choose to designate more than one Investigator or an external Investigator.

All Investigators will receive annual training on issues related to the definitions of Title IX Prohibited Conduct; the scope of Dartmouth-Hitchcock's education program and activity; how to conduct an investigation that is fair and impartial, providing the parties with notice and a meaningful opportunity to be heard, protecting the safety of all participants while promoting accountability; how to create a Report of Investigation that fairly summarizes relevant evidence; and, how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

If either party believes an assigned Investigator has a conflict of interest or bias, they may notify the Title IX Coordinator, who will determine if a different Investigator should be assigned.



- ii. Investigative Steps and Method of Information Gathering** – During the Investigation, the Investigator will seek to meet separately with the Complainant, Respondent and relevant witnesses. The Investigator is responsible for gathering inculpatory and exculpatory evidence (i.e. evidence that tends to prove and disprove the allegations) directly related to the Formal Complaint. The Investigator will send written notice of the interview date, time, and location, name of participants and purpose of the interview to the parties and witnesses, in sufficient time for the party to prepare and participate.

The Investigator may gather information in multiple ways. This may include, without limitation, collecting documents, photographs, communications between the parties, and other electronic records as appropriate. In addition, a Complainant or Respondent may:

- Submit documents to the Investigator;
- Submit a list of witnesses to be evaluated by the Investigator for potential interviews; and/or
- Request that the Investigator attempt to collect documents or other information that are not accessible to the requesting party.

- iii. Medical and Counseling Records** – The Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. If a person voluntarily chooses to share medical or counseling records with the Investigator, they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond.

- iv. Rape Shield** – Under Rape Shield protections, questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, 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.

- v. Timing of Investigation** – The Investigator will provide periodic updates to the parties about the status of the investigation, with a goal to complete the fact-gathering portion of the Investigation within approximately sixty (60) calendar days.

- vi. Disclosure of Evidence: Opportunity to Inspect, Review, and Respond** – After the Investigator has concluded the collection of evidence, the Investigator will send to the Complainant and the Respondent the evidence in electronic format or hard copy that is directly related to the allegations raised in the Formal Complaint so that each party can meaningfully inspect, review and respond to the evidence prior to the conclusion of the Investigation.

The submission of evidence to the parties shall also include evidence upon which Dartmouth-Hitchcock may not necessarily intend to rely in reaching a determination regarding responsibility as well as inculpatory or exculpatory evidence whether obtained from a party or other source, except that under no circumstances shall either party have a right to inspect evidence that constitutes information protected under any legally recognized privilege, unless the person or entity holding such privilege has waived the privilege. Both the Complainant and the Respondent will have ten (10) days from receipt of the evidence to inspect, review, and respond

to the evidence. Any response to the evidence must be received by the Investigator in writing within ten (10) days, unless extended by the Investigator for good cause shown. The Investigator will consider the parties' written responses before completing the Investigative Report.

- vii. Acceptance of Responsibility** – At any point during the Investigation, the Respondent may elect to accept responsibility for some or all of the allegations at issue. Where there is an acceptance of responsibility as to some but not all of the allegations, the Investigation will continue to conclusion. Where there is an acceptance of responsibility as to all of the allegations, the Investigator will complete a Report of Investigation, as described in more detail below, and refer the matter to the Decision-Maker for sanctioning as described below. Where both parties and Dartmouth-Hitchcock agree, the matter may also be resolved through the Informal Resolution process at this stage and in accordance with Section VI(b).
- viii. Report of Investigation** – After the Investigator has received and considered the parties' written responses to the evidence, the Investigator will complete the Report of Investigation that fairly summarizes the relevant evidence. The Report of Investigation is not intended to catalog all evidence obtained by the Investigator, but only to provide a fair summary of that evidence. Only relevant evidence (including both inculpatory and exculpatory) will be referenced in the Report of Investigation. The Investigator may redact irrelevant information from the Report of Investigation when that information is contained in documents or evidence that is/are otherwise relevant. Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report. The Title IX Coordinator will make the Report of Investigation available to the parties in electronic format or hard copy and provide both parties with at least ten (10) days to respond. The Investigator shall include the responses of any party (if timely filed) as part of the final Report of Investigation.

## **B. Preponderance of the Evidence Standard**

In making any determination on the resolution of the Formal Complaint following an investigation, the evidentiary standard is the preponderance of the evidence; that is, whether it is more likely than not that Title IX Prohibited Conduct occurred.

## **VIII. Post-Investigation Procedures; Resolution**

After the completion of the Investigation, the Title IX Coordinator shall review the Report of Investigation in order to determine whether the Formal Complaint is subject to dismissal on either mandatory or discretionary grounds, as described below. For any Formal Complaint not subject to dismissal, the matter will proceed for review by a neutral, unbiased Decision Maker for a Determination of Responsibility. The Decision Maker may not have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor of or against the parties to a particular case. The Decision Maker will be trained on topics including how to serve impartially and on issues of relevance, including how to apply the Rape Shield protections provided for complainants. The parties will have an opportunity to raise any objections regarding a Decision Maker's actual or perceived conflicts of interest or bias prior to a determination of responsibility.

## **A. Dismissal of Formal Complaint After Investigation**

- i. Mandatory Dismissal** – Dartmouth-Hitchcock must dismiss the Formal Complaint if, after the Investigation and upon review of the Report of Investigation, it is determined by the Title IX Coordinator that the conduct alleged in the Formal Complaint does not constitute Title IX Prohibited Conduct or did not occur against a person in the United States.
- ii. Discretionary Dismissal** – Dartmouth-Hitchcock may dismiss the Formal Complaint if:
  1. The Respondent is no longer employed by Dartmouth-Hitchcock or under Dartmouth-Hitchcock's control;
  2. Specific circumstances prevent Dartmouth-Hitchcock from gathering sufficient evidence to reach a determination; or
  3. The Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the Formal Complaint.

The Complainant may notify the Title IX Coordinator at any time that the Complainant does not wish to proceed. If such a request is received, the Title IX Coordinator shall review the factors outlined in Section III(b) in reaching a determination as to whether to terminate the Investigation or process of the Formal Complaint. In the event that the Title IX Coordinator determines that the matter will proceed, the Title IX Coordinator shall notify the Complainant in writing of that determination. The notice will include a statement that the Complainant is not required to participate any further with the process. In the event that the Title IX Coordinator determines that the matter should be terminated, both parties will be notified in writing.

- iii. Referral for Consideration Under Other Policy** – In the event of dismissal after the Investigation (mandatory or discretionary), the Title IX Coordinator may refer all or some of the matter for consideration under another applicable Dartmouth-Hitchcock policy or procedures.
- iv. Notice of Dismissal.** Upon dismissal, the Title IX Coordinator shall promptly send a Notice of Dismissal (mandatory or discretionary) and reason(s) therefor simultaneously to the parties. The parties shall have the opportunity to appeal the Notice of Dismissal in accordance with the procedures outlined in Section IX.

## **B. Written Determination of Responsibility**

If a Formal Complaint is not subject to mandatory or discretionary dismissal after Investigation, the Decision Maker shall review the Report of Investigation and determine whether there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation(s) of the Policy. A Respondent is presumed to be not responsible for the alleged conduct unless and until a Determination of Responsibility is made at the conclusion of the Investigation.

Prior to the reaching a Determination of Responsibility, the Decision Maker shall afford the parties an opportunity to submit written, relevant questions that a party wants asked of any party or witness. The parties' posing questions shall be provided with the answers to their questions and are permitted additional, limited follow-up questions. The Decision Maker shall determine whether a party's questions are relevant and may exclude a question as not relevant. The Decision Maker must explain to the party proposing the questions any decision to exclude a question as not relevant. Questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if the questions concern specific incidents of the

Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The Decision Maker shall prepare a Written Determination of Responsibility, which shall include, at a minimum:

- i. Identification of the allegations potentially constituting Title IX Prohibited Conduct.
  - ii. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather evidence.
  - iii. Findings of fact supporting the determination.
  - iv. Conclusions about whether the alleged Title IX Prohibited Conduct occurred, applying the definitions set forth in the Policy to the facts.
  - v. A statement of, and the rationale for, the result as to each allegation, including a determination regarding responsibility.
  - vi. Any disciplinary sanctions to be imposed on the Respondent, in accordance with subsection (C).
  - vii. Whether remedies or Supportive Measures will be provided to the Complainant; and
  - viii. Information on how to file an appeal in accordance with Section IX.
- C. The Decision Maker shall provide the Written Determination of Responsibility to the Title IX Coordinator, who will be responsible for issuing the decision to both parties and implementing any Supportive Measures or other remedies. The Written Determination of Responsibility shall become final either on the date that Dartmouth-Hitchcock provides the parties with a Notice of Outcome of Appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely in accordance with the timeframes outlined in Section IX. **Possible Sanctions**

The Policy prohibits a broad range of conduct, all of which is serious in nature. In keeping with Dartmouth-Hitchcock's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Decision Maker has broad latitude in imposition of sanctions tailored to the facts and circumstances of each Formal Complaint.

- i. In determining the appropriate sanction(s) and/or remedies, the Decision Maker shall consider a number of factors, including: The nature of the conduct at issue.
- ii. The impact of the conduct on the Complainant.
- iii. The impact or implications of the conduct on the Dartmouth-Hitchcock community.
- iv. Prior misconduct by the Respondent, including any criminal convictions, if such information is available and known.
- v. Any expression of remorse or acceptance of responsibility by the Respondent.
- vi. Maintenance of a safe and respectful environment conducive to learning.
- vii. The necessity of any specific action in order to eliminate the Title IX Prohibited Conduct, prevent its reoccurrence and remedy its effects on the Complainant or other affected individuals; and any mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution.

The Decision Maker may also consider restorative outcomes that, taking into account the safety of the Dartmouth-Hitchcock community as a whole, allow a Respondent to develop insight about their responsibility for the behavior, learn about the impact of the behavior on the Complainant and the community, and identify how to prevent or change the behavior. Sanctions may be

issued individually, or a combination of sanctions may be imposed. Sanctions will typically be imposed immediately, although the Title IX Coordinator has the discretion to stay imposition of some or all sanctions pending an appeal.

## **IX. Appeals**

### **A. Grounds for Appeal**

A Complainant or Respondent may appeal the decision of the Decision Maker. A Complainant may also appeal the decision of the Title IX Coordinator to dismiss a Formal Complaint prior to the initiation of an Investigation as outlined in Section VI(A)(i), or for mandatory or discretionary grounds as outlined in Section VII(A). Appeals under this section may be submitted on one or more of the following grounds:

- i. Procedural irregularity that affected the outcome of the matter;
- ii. New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could have affected the outcome;
- iii. The Title IX Coordinator, Investigator(s), and/or Decision Maker 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.

### **B. Timeline for Appeal; Notice of Appeal**

The Complainant or Respondent may appeal the outcome by submitting a written appeal to the Title IX Coordinator either in person or via email within ten (10) days of receipt of either the Written Determination of Responsibility or Notice of Dismissal. The submission of appeal stays any sanctions for the pendency of an appeal.

When a party appeals either the determination of the Decision Maker or the dismissal of a Formal Complaint, the Title IX Coordinator shall do the following

- i. Issue a written Notice of Appeal to the other party in writing when the appeal is filed.
- ii. Assign an External Reviewer for the appeal in accordance with subsection (c).
- iii. Allow both parties the opportunity to submit a written statement in regards to the appeal.
- iv. Issue the Notice of Outcome of Appeal

### **C. External Reviewer**

The External Reviewer will be a neutral party outside of Dartmouth-Hitchcock, such as an attorney with legal experience, training, and knowledge regarding sexual and gender-based harassment and interpersonal violence. The External Reviewer will not have a current affiliation with Dartmouth-Hitchcock.

### **D. Contents of Appeal; Response**

Each party may submit a written appeal of up to 6,000 words in length, which shall be shared with the other party. The non-appealing party may file a response to the other party's appeal (no more than 6,000 words in length), which must be received within ten (10) days after receiving the Notice of Appeal. The appealing party will have access to the other party's response, but no further responses will be permitted.

The Title IX Coordinator is permitted, but not required, to file a response to a party's appeal to respond to concerns regarding the procedural irregularities or bias in the Investigation process. The parties will have access to the Title IX Coordinator's response, but no further responses will be permitted.

#### **E. Appeal Decision**

The External Review will provide a Notice of Outcome of Appeal simultaneously to the parties no later than ten (10) days after receipt of all appeal documents and include rationale for the decision. As needed, the External Reviewer may consult with the Title IX Coordinator regarding the management of ongoing Supportive Measures, remedies, or whether additional time is needed in order to render a decision on the appeal.

The External Reviewer may reject the appeal in whole or in part, issue a new Written Determination of Responsibility, or issue new or revised sanctions and remedies.

<b>Responsible Owner:</b>	Graduate Medical Education (GME)	<b>Contact:</b>	Karen Miller
<b>Approved By:</b>	Chief Medical Officer - D-H Lebanon; GMEC Approver Group; Office of Policy Support (OPS)	<b>Version #</b>	1
<b>Current Approval Date:</b>	05/04/2022	<b>Old Document ID:</b>	
<b>Date Procedure to go into Effect:</b>	05/04/2022		
<b>Related Policies &amp; Procedures:</b>	<a href="#">Code of Ethical Conduct-D-H</a> <a href="#">Non-Discrimination and Anti-Harassment Policy</a>		
<b>Related Job Aids:</b>			