

HAMPSHIRE COLLEGE
NON-DISCRIMINATION POLICY & PROCEDURES

Effective: September 25, 2025

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HAMPSHIRE COLLEGE
NON-DISCRIMINATION POLICY AND PROCEDURES

1. Statement of Policy

All Hampshire College (“Hampshire College” or the “College”) community members have the right to personal and sexual safety, respect, integrity and freedom of expression, as long as such expression does not cause harm to others. The College seeks to maintain a safe learning, living, and working environment.

Hampshire College does not discriminate and prohibits discrimination on the basis of race, color, religion, creed, sex, age, marital status, national origin, mental or physical disability, political belief or affiliation, veteran status, sexual orientation, sex stereotypes, sex characteristics, gender, gender identity, gender expression, genetic information, pregnancy or related conditions, or any other class of individuals protected from discrimination under state or federal law in any of its educational programs and activities, in employment and application for employment, and in admission and application of admission as required by Title IX of the Education Amendments of 1972, the Americans with Disabilities Act of 1990, as amended, Section 504 of the Rehabilitation Act of 1973, Title VI and VII of the Civil Rights Act of 1964, and the Age Discrimination Act of 1975, and other federal and state laws that prohibit discrimination. Hampshire College prohibits harassment of students, employees, and third parties on the basis of protected class, including but not limited to racial harassment, sexual harassment, and gender-based harassment. Hampshire College also prohibits retaliation for filing good faith complaints of discrimination or harassment.

This Policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This Policy is intended to define community expectations and to establish a mechanism for responding when those expectations have been violated. Violations of this Policy will be addressed by the accompanying Procedures in Appendix A.

This policy defines legally prohibited discrimination, harassment, and retaliation prohibited by law and by Hampshire; outlines available resources and reporting options available to students and employees; and references the applicable informal resolution, investigative, and disciplinary procedures (the “Procedures”). Hampshire College will respond to reports of discrimination, harassment, and retaliation under this Policy and will take prompt action to eliminate such conduct, prevent its recurrence, and remedy any adverse effects in the College’s education programs and activities, including, as appropriate, by way of the Procedures outlined below. The College also conducts prevention, awareness, and training programs for students and employees to facilitate the goals of this Policy.

This Policy and the Procedures covers all protected classes listed above, with the exception of protected classes that fall within the definitions covered under Hampshire College’s Title IX

Policy and Grievance Procedures located [here](#) and student concerns covered under the Grievance Procedures for Disability-Related Access located [here](#).

2. Scope

This Policy applies to any member(s) of the Hampshire College community—Hampshire College students who are enrolled for credit- or non-credit-bearing coursework at Hampshire College (“Students”); Hampshire College employees working at Hampshire College, including all full-time and part-time faculty, staff, and administrators (including adjuncts and casuals) (“Employees”); and contractors, vendors, visitors, guests, or other third parties (“Third Parties”) — who are participating in or attempting to participate in Hampshire College’s education programs or activities.

Prohibited Conduct, as defined below, may violate this Policy when it occurs:

- On campus;
- On other property owned or controlled by Hampshire College;
- In the context of Hampshire College’s education programs or activities, including but not limited to employment, classes, Hampshire College-sponsored study abroad programs, research, and online; or
- While off-campus when participating in Hampshire College programs, activities, or events.

The Procedures, as detailed below, provide for the prompt and equitable resolution of complaints of Prohibited Conduct as defined by this Policy. To the extent that alleged conduct falls outside this Policy, Hampshire College retains authority to investigate and adjudicate such alleged conduct under its other applicable policies and procedures

3. Prohibited Conduct

This section outlines the conduct prohibited under this Policy.

Students and employees are entitled to an education and employment environment that is free of discrimination, harassment, and retaliation. The Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under this Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of this Policy, though the College will offer supportive measures to those impacted, and will implement remedies addressing the larger Hampshire community, as appropriate.

All definitions of prohibited conduct below encompass actual and/or attempted offenses.

Any of the following instances of prohibited conduct can be charged as or combined as pattern offenses, in which case the notice of the allegations will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may be alleged when there is a potential substantial similarity between incidents in which the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, behavior similarity, or other factors. Where a pattern is found, it can be the basis to enhance sanctions accordingly.

Violation of any other Hampshire College policies may constitute discrimination or harassment when motivated by actual or perceived protected class under this Policy, and the result is a limitation or denial of education or employment access, benefits, or opportunities.

A. Discrimination

Discrimination is conduct that excludes a person from participation in, denies them the benefits of, or otherwise subjects them to adverse treatment in their employment or under the College's education program or activity, based, in whole or in part, upon that person's actual or perceived protected class.

Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability (for employees only), religion, or creed.

B. Harassment

Harassment is unwelcome conduct on the basis of actual or perceived protected class that, based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity (*i.e.*, creates a hostile environment).

C. Retaliation

Retaliation is intimidation, threats, coercion, or discrimination against any person by Hampshire College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by law or this Policy or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in any proceeding subject to this Policy and Procedures. Retaliation includes **Peer Retaliation**, which means retaliation by a student against another student.

Bystander Amnesty. Bystanders who seek medical assistance on behalf of others will neither be subject to accountability measures nor notation on their educational record for the sole violation of using or possessing a substance themselves, including bystanders who are also assisting the person in need of medical attention, not solely the person placing the call for help.

For more information on this process, as applied to Students, please see Hampshire College's [Amnesty Policy](#).

A note about common terms: The following common terms are used in this Policy in reference to protected classes and Prohibited Conduct.

- **Color.** The actual or perceived pigmentation, complexion, or shade/tone of a person's skin (i.e., lightness, darkness, or other color characteristic of a person's skin), regardless of that person's race or ethnicity.
- **Ethnicity.** A person's actual or perceived belonging to a population, group, or subgroup of people based on shared culture/cultural background (e.g., language, food, music, dress, values, and beliefs), history, ancestry, or descent, or having the characteristics commonly attributed to such ethnicity.
- **National Origin.** A person's actual or perceived place of origin, ancestry, ethnicity, language or accent, cultural heritage, surname or name associated with a nation, or association with people of a particular nation or origin, regardless of a person's citizenship or immigration status. For the purposes of this definition, National Origin also encompasses actual or perceived Shared Ancestry, Ethnicity, or citizenship or residency in a country with a dominant religion or distinct religious identity.
- **Shared Ancestry.** A person's actual or perceived ethnic, cultural, or ancestral background (e.g., lineage, familial origins, genetic inheritance, language, customs, societal norms, and heritage). Discrimination or harassment on the ground of Shared Ancestry can include discrimination or harassment based on actual or perceived religion (e.g., Jewish, Christian, Muslim, Sikh, Hindu, Buddhist, Shinto, indigenous/religious group), when that discrimination or harassment is interwoven with Shared Ancestry or Ethnicity.
- **Race.** A person's actual or perceived membership in a group characterized by shared physical, cultural, or ethnic traits. This includes traditional racial groups (e.g., White, Black, African American, Asian, American Indian, or Alaska Native) as well as those that may be defined by ancestry, Ethnicity, or perceived racial affiliation.

Other definitions applicable in this Policy and the Procedures are included in [Appendix B](#).

4. Director of Civil Rights Compliance and External Contacts

Hampshire College has appointed the Director of Civil Rights Compliance to coordinate the College's compliance with applicable civil rights laws and implementation of this Policy and Procedures

Marilu Gamboa
Director of Civil Rights Compliance and Title IX Coordinator
Office for Civil Rights and Title IX
Cole Science Center
Amherst, MA
413-559-6463
civilrights@hampshire.edu

Because the Director of Civil Rights Compliance may designate any qualified person to assume or assist in performing the Director of Civil Rights Compliance's duties under this Policy, where this Policy identifies a specific role of the Director of Civil Rights Compliance, such provision should be read with the understanding that the role may be performed by any of the Director of Civil Rights Compliance's designees.

Concerns about the College's application of the Policy and compliance with certain federal and state civil rights laws may be addressed to:

U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1475
202.453.6020

U.S. Equal Employment Opportunity Commission
John F. Kennedy Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203
800.669.4000

Massachusetts Commission Against Discrimination
436 Dwight Street, Room 220
Springfield, MA 01103
413.739.2145

5. Supportive Measures

Among the Director of Civil Rights Compliance's responsibilities is coordinating **Supportive Measures**.

Supportive Measures may be provided even when no complaint has been filed. Supportive Measures may vary depending on what resources are reasonably available. Supportive Measures must not unreasonably burden any party, and the Supportive Measures may conclude or continue after conclusion of the Grievance Procedures or informal resolution, as appropriate.

Examples of possible Supportive Measures include:

- Counseling
- Extensions of deadlines and other course-related adjustments
- Increased security and monitoring of certain areas of campus
- No Contact Directive (Intentional Avoidance Notice)
- Leaves of absence
- Changes in class, work, housing, extracurricular, or any other activity, regardless of whether there is a comparable alternative
- Training and education programs related to harassment, discrimination, or retaliation

The Director of Civil Rights Compliance will work with the individual in arranging for Supportive Measures, as appropriate. Hampshire College will not disclose information about any Supportive Measure(s) to persons other than the individual(s) to whom they apply, unless necessary to provide the Supportive Measure(s) or restore or preserve access to the College's education program or activity or if any exception described below, applies.

The College will assist Five College Complainants to the extent reasonably practicable and will coordinate efforts with the Director of Civil Rights Compliance at Complainant's home institution to provide Supportive Measures to the Five College Complainant. The College does not have the authority to enforce Supportive Measures on other Five College campuses.

If an individual wishes to seek additional modification or termination of any Supportive Measure(s) applicable to them due to materially changed circumstances, they may do so by informing the Director of Civil Rights Compliance of this request.

Individuals with disabilities who need reasonable accommodations for such disabilities under this Policy and the Procedures are advised to contact the Director of Civil Rights Compliance, who may work with the Office of Accessibility Resources and Services ("OARS") to provide any reasonable disability accommodations.

6. Reporting Options

Reporting to the College

Hampshire College strongly encourages any individual who has experienced, observed, or has knowledge of prohibited discrimination, harassment, or retaliation under this Policy to report to the Director of Civil Rights Compliance. Reporting conduct does not necessarily require

participating in any subsequent proceedings, including the Procedures, nor is such participation required for an individual to request and receive Supportive Measures.

Reports may be brought to Hampshire College by contacting any of the following:

- Director of Civil Rights Compliance
- Hampshire College Campus Safety and Wellbeing

Anonymous Reporting

Individuals who would like to submit an anonymous report can do so at [this link](#).

The Director of Civil Rights Compliance will address an anonymous report of conduct that reasonably may constitute prohibited discrimination, harassment, or retaliation under this Policy to the extent reasonably possible. However, the ability of the College to conduct an effective inquiry into and take action concerning an anonymous report may be significantly limited. Requests for investigation and determination as to violation(s) of this Policy may not be made anonymously.

In addition, there may be circumstances, such as a pattern of behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, in which Hampshire College may need to proceed under the Policy and Procedures.

As set forth below, College Employees may not make anonymous reports about conduct involving others that reasonably may constitute discrimination, harassment, or retaliation pursuant to this Policy. All such information must be provided to the Director of Civil Rights Compliance.

Public awareness events in which experiences of harassment, discrimination, or retaliation are disclosed do not constitute reports to Hampshire College under this Policy, unless such harassment, discrimination, or retaliation involves an imminent or serious threat to the health or safety of a person or group.

Reporting to Law Enforcement

Individuals have the right to notify or decline to notify law enforcement concerning an alleged incident of discrimination, harassment, or retaliation under this Policy which may be criminal in nature, and individuals may receive assistance from the Director of Civil Rights Compliance doing so. Under limited circumstances that pose a health or safety threat to the College community, Hampshire College may independently notify law enforcement of the alleged incident(s).

Any person wishing to pursue criminal action in addition to, or instead of, reporting to College may do so by contacting:

Emergencies: 911

Hampshire College Campus Safety and Wellbeing

Location: Basement of Library / Ground Floor, Merrill Building

Phone: 413-559-5424 or 413-559-5555 (emergencies) Email: csw@hampshire.edu

Local Police Departments

Amherst Police Department

Location: 111 Main Street, Amherst, MA 01002 Phone: 413-259-3000

Hadley Police Department

Location: 15 East Street, Hadley, MA 01035 Phone: 413-584-0883

State Police Department Massachusetts State Police General Headquarters

470 Worcester Road, Framingham, MA 01702

Phone: 508-820-2300

The law enforcement contacts above encourage anyone reporting to law enforcement to take steps to preserve evidence.

A criminal investigation into any matter does not preclude the College from implementing this Policy and its Procedures. However, the College may reasonably and temporarily delay its Procedures when there is an ongoing concurrent law enforcement proceeding.

Neither the result(s) of a law enforcement investigation nor the decision of law enforcement to investigate or decline to investigate any reported incident(s) is determinative as to whether conduct has occurred for the purposes of this Policy and the Procedures.

Individuals are encouraged to report to the Director of Civil Rights Compliance or Campus Safety and Wellbeing regarding any protective order issued under state or federal law. The Director of Civil Rights Compliance will respond promptly and effectively to such information, including notifying Campus Safety and Wellbeing.

Confidential Resources

Certain Hampshire College Employees are designated as Confidential pursuant to this Policy and the law.

Confidential Resources are not required to disclose to the Director of Civil Rights Compliance any personally identifying information from reports of discrimination, harassment, or retaliation under this Policy that they receive from an individual while performing their role as a Confidential Resource.

While Confidential Resources will maintain confidentiality under this Policy and the Procedures, they may be required to disclose personally identifiable information by law or a court order or when the reporting individual gives written consent for disclosure.

If an individual would like the details of an incident to be kept confidential, they may speak to Hampshire Health and Counseling Services: 413.559.5458

7. Employee Responsibilities

All Hampshire College Employees, with the exception of those designated as Confidential Resources (see below), must disclose to the Director of Civil Rights Compliance when the Employee has information about conduct that may reasonably constitute prohibited discrimination, harassment, or retaliation pursuant to this Policy. Hampshire College considers employees to be “responsible employees” under this Policy.

If a Student-Employee while performing employment duties or otherwise in the course of their employment receives information regarding conduct that may reasonably constitute discrimination, harassment, or retaliation pursuant to this Policy, that Student-Employee must likewise disclose the same to the Director of Civil Rights Compliance.

The responsible employee disclosure requirement does not apply to an Employee who personally has been subject to conduct that may reasonably constitute Prohibited Conduct pursuant to this Policy.

8. Privacy

Hampshire College is committed to protecting the privacy of all involved in responding to a report or Formal Complaint pursuant to this Policy and applicable law and will take steps to limit the disclosure of information to only those individuals who have a need to know in order to implement this Policy and the Procedures. Additional information with respect to privacy expectations during the Procedures may be found below.

The College will not disclose personally identifiable information obtained in the course of coordinating actions under this Policy, applying the Procedures, or otherwise complying with federal and state non-discrimination law, except in the following circumstances:

- When the College has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the roles and responsibilities set forth by this Policy, including actions taken to address conduct prohibited under this Policy;
- As required by federal law, federal regulations, or the terms and conditions of a federal award, including a grant award or other funding agreement; and/or

- To the extent such disclosures are not otherwise in conflict with federal or state law, when required by state or local law, or when permitted under the Family Educational Rights & Privacy Act (FERPA).

APPENDIX A: Procedures for Resolution of Formal Complaints

These Procedures will apply to resolve Formal Complaints under this Policy.

In implementing these Procedures, Hampshire College will treat Complainant and Respondent equitably. The College will take reasonable steps to protect the privacy of the parties and witnesses during all stages of the Procedures. Such steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; to consult with their family members, Confidential Resources, or advisors; or to otherwise prepare for or participate in these Procedures. Knowingly making false statements and/or knowingly submitting false information during the Procedures process is prohibited by this Policy and may violate other applicable Hampshire College policies and procedures.

1. Making a Formal Complaint, Dismissal, Notice of Allegations

A. Making a Formal Complaint

The following individuals have the right to make a Formal Complaint under this Policy:

- A Hampshire College student or employee, including those who have been subjected to conduct that is prohibited by this Policy.
- Any third party who was participating or attempting to participate in the College's education program or activity at the time of the alleged conduct, including those who have been subjected to conduct that could constitute conduct under this Policy.
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of Complainant.
- The College's Director of Civil Rights Compliance, as provided below.

A Formal Complaint is a document filed by a Complainant or signed by the Director of Civil Rights Compliance alleging prohibited conduct against Respondent and requesting that the College investigate the allegation pursuant to these Procedures. A Formal Complaint may be made with the Director of Civil Rights Compliance in person, by mail, or by electronic mail and must have the Complainant's physical or digital signature, otherwise indicate that the Complainant is the person filing the Formal Complaint.

The Director of Civil Rights compliance may "sign" a Formal Complaint only after considering the following factors:

- Any request by Complainant not to proceed with initiation of a Formal Complaint;
- Any reasonable safety concerns that Complainant has regarding initiation of a Formal Complaint;
- The risk that additional acts of conduct prohibited by this Policy would occur if a Formal Complaint is not initiated;
- The severity of the alleged conduct prohibited by this Policy, including whether the conduct alleged, if established, would require the removal of Respondent(s) from

campus or imposition of another disciplinary sanction to end the conduct and prevent its recurrence;

- The relationship of the parties, including whether Respondent is a Hampshire College Employee;
- The scope of the alleged conduct prohibited by this policy, including information suggesting a pattern, ongoing conduct, or conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether alleged conduct occurred; and
- Whether the College could end the alleged conduct prohibited by this Policy and prevent its recurrence without initiating the Procedures.

If, after considering these and any other relevant factors, the Director of Civil Rights Compliance determines that the alleged conduct (1) presents an imminent and serious threat to the health or safety of Complainant or another person, or (2) prevents the College from ensuring equal access to its education program or activity, the Director of Civil Rights Compliance may initiate a Formal Complaint. The Director of Civil Rights Compliance will notify Complainant prior to initiating such a Formal Complaint and will appropriately address any reasonable concerns about Complainant's safety or the safety of others, including by providing Supportive Measures.

Hampshire College may consolidate Formal Complaints of Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances.

When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable.

B. Dismissal

The Director of Civil Rights Compliance **must** dismiss a Formal Complaint under this Policy if the conduct alleged in the Formal Complaint would not constitute discrimination, harassment, or retaliation as prohibited by this Policy even if proved. Such dismissal does not preclude the application of another applicable College Policy.

The Director of Civil Rights Compliance **may** dismiss a Formal Complaint under this Policy if:

- Hampshire College is unable to identify any Respondent after taking reasonable steps to do so;
- Respondent is not participating in Hampshire College educational program or activity and is no longer enrolled or employed by the College;
- Complainant notifies the Director of Civil Rights Compliance in writing that the Complainant would like to withdraw the Formal Complaint or any specific allegations therein; and/or

- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or the specific allegations of therein.

Before dismissing a Formal Complaint, the Director of Civil Rights Compliance will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the Director of Civil Rights Compliance will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after Respondent has received notice of the allegations, then the Director of Civil Rights Compliance will notify the parties simultaneously in writing.

Director of Civil Rights Compliance will notify Complainant that a dismissal may be appealed to the Appeals Officer designated by the Director of Civil Rights Compliance on the bases outlined below. If the dismissal occurs after Respondent has received notice of the allegations, then the Director of Civil Rights Compliance will notify the parties simultaneously in writing that the dismissal may be appealed on the same bases. If a dismissal is appealed, Hampshire College will follow the procedures outlined in the Appeals section below.

When a Formal Complaint is dismissed, the Director of Civil Rights Compliance will:

- Offer Supportive Measures to Complainant, as appropriate;
- If Respondent has received notice of the allegations, offer Supportive Measures to Respondent, as appropriate; and
- Take other prompt and effective steps, as appropriate, to ensure that conduct does not continue or recur within the College's education program or activity.

C. Notice of Allegations

If the Director of Civil Rights Compliance has determined, following an evaluation, that initiation of the Procedures is appropriate, the Director of Civil Rights Compliance will provide the following written notice to the parties in writing with sufficient time for the parties to prepare a response before any initial interview.

The written notice will include:

- This Policy and the Procedures, including the informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the alleged incident(s), the conduct alleged to constitute conduct prohibited by this Policy, and the date(s) and location(s) of the alleged incident(s);
- A statement that retaliation is prohibited;
- A statement that Respondent is presumed not responsible for the conduct until a determination is made at the conclusion of the Procedures based on the preponderance of the evidence. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial investigator;

- 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 regarding prohibitions on knowingly making false statements or knowingly submitting false information during the Procedures, and that doing so may violate other applicable Hampshire College policies and procedures; and
- A statement that the parties are entitled to an investigative report that accurately summarizes the relevant and not otherwise impermissible evidence and equal opportunity to access the underlying relevant and otherwise not impermissible evidence.

If, during an investigation, the College decides to investigate any additional allegation(s) of conduct by Respondent towards Complainant that were not included in the initial notice described above or that are included in a consolidated Formal Complaint, the College will provide written notice of the additional allegation(s) to the parties.

If the College has reasonable concerns about the safety of any person as a result of providing the notice described above, the College may reasonably delay providing notice in order to first address such safety concern(s) appropriately.

2. Informal Resolution

Either party may request an informal resolution process at any time for an incident of conduct under this Policy before a determination is made under these Procedures.

Allegations may be resolved through the informal resolution process only after the filing of a Formal Complaint.

Informal resolution, if approved by the Director of Civil Rights Compliance, takes place in lieu of resolving a Formal Complaint through the Procedures below. The Director of Civil Rights Compliance may decline to allow the informal resolution process in any matter despite the parties' wishes. The Director of Civil Rights Compliance will not approve informal resolution when such process would conflict with federal, state, or local law.

Before initiating the informal resolution process, the Director of Civil Rights Compliance will provide the parties with written notice that explains:

- The allegation(s);
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution under the informal resolution process, any party has the right to withdraw from the informal resolution process and to initiate or resume the Procedures;
- That the parties' agreement to a resolution at the conclusion of the informal resolution process precludes the parties from initiating or resuming Procedures with respect to the same resolved allegation(s);

- The potential terms that may be requested or offered in an informal resolution agreement, including that an informal resolution agreement is binding only on the parties; and
- What information and records the College will maintain and whether and how such information and records may be shared or used in connection with the initiation or resumption of the Procedures.

If both parties voluntarily consent to the informal resolution process in writing, and the Director of Civil Rights Compliance approves, the Director of Civil Rights Compliance will assign an informal resolution facilitator. The informal resolution facilitator will be trained, as appropriate, including as to how to serve impartially and avoid conflicts of interest and bias.

Any individual who would like further information about the College's informal resolution process may contact the Director of Civil Rights Compliance directly at any time.

3. Investigation

The Director of Civil Rights Compliance is responsible for overseeing any investigation and decision pursuant to this Policy and Procedures.

The College will provide for adequate, reliable, and impartial investigations and, if applicable, adjudications of Formal Complaints. The burden is on the College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether the conduct occurred.

The Director of Civil Rights Compliance, upon the issuance of written notice described above will refer the Formal Complaint for investigation and appoint an investigator who may be the Director of Civil Rights Compliance, Hampshire Employee, or other investigator. If needed, the investigator may be assisted in conducting investigation functions by additional qualified individuals.

The College will provide written notice to a party whose participation is invited or expected, of the date, time, location, participants, and purpose of all meetings or proceedings—including investigatory interviews—with sufficient time for the party to prepare to participate. The College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible during the investigation.

During the investigation, the College will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The advisor may review evidence and consult with the party but may not speak on behalf of the party during such meeting or proceeding.

During the investigation, the investigator will collect information from the parties and any witnesses, as appropriate. The parties will have an equal opportunity to present fact witnesses and any evidence that is relevant and not otherwise impermissible for the investigator to consider.

The investigator will review all evidence gathered during the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Generally, evidence attesting to a party's character is not considered relevant.

The following types of evidence are impermissible:

- Evidence that is protected under a federal or state law privilege, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless that party or witness provides voluntary, written consent for use in the for use in the Grievance Procedures.

At the conclusion of an investigation, the College will provide each party and the party's advisor, if any, with an investigative report and an equal opportunity to access evidence that is relevant to the allegation(s) and not otherwise impermissible. Each party will be provided ten (10) business days to review the investigative report and evidence and may submit a written response within that timeframe, if they so choose.

The College prohibits the parties' and their advisors' from disclosing information and evidence obtained solely through the Procedures, including any investigative report, in an unauthorized manner and such disclosure may violate other applicable Hampshire College policies and procedures.

4. Determinations

The Director of Civil Rights Compliance, upon the finalization of the investigative report and the parties' review of such report, appoints a decisionmaker who may be the Director of Civil Rights Compliance, a Hampshire Employee, or other decisionmaker.

Using the preponderance of the evidence standard, and upon review of the investigative report, the evidence relevant to the allegation(s) and not otherwise impermissible, and the parties' responses to the investigative report and evidence (if applicable), the decisionmaker will determine whether the alleged conduct occurred.

This standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the preponderance of the evidence standard that conduct occurred, the quantity of evidence notwithstanding, the decisionmaker will not determine that alleged conduct occurred.

The decisionmaker will then provide a written notice of their determination to the parties.

The written notice of determination will include:

- A description of the alleged Prohibited Conduct;
- Information about the policies and procedures that were used to evaluate the allegations;
- The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether the alleged conduct has occurred;
- When the decisionmaker finds that conduct has occurred, any disciplinary sanctions the College will impose on Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the College to the Complainant, the Hampshire Community, and other individuals identified by the Director of Civil Rights Compliance as having had equal access to the College's education program or activity limited or denied by the conduct; and
- The College's procedures and permissible bases for the parties to appeal the determination.

The College will not impose discipline on Respondent for alleged conduct unless there is a determination by the decisionmaker that Respondent engaged such conduct. If there is a determination that alleged conduct occurred, as appropriate, the Director of Civil Rights Compliance will:

- Coordinate the provision and implementation of remedies to the Complainant, the Hampshire Community, and other individuals the College identifies as having had equal access to the College's education program or activity limited or denied by the conduct;
- Coordinate the imposition of any disciplinary sanctions on Respondent, including notification to Complainant of any such disciplinary sanctions as legally permitted; and
- Take other appropriate, prompt and effective steps to ensure that conduct does not continue or recur within the College's education program or activity.

Hampshire College will comply with these Procedures before imposition of any disciplinary sanctions against Respondent and will not discipline a party, witness, or others participating in these Procedures for making a false statement based solely on the determination whether the alleged occurred.

The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of any appeal taken in accordance with the applicable section below or, if there is no appeal, the date on which an appeal would no longer be considered timely.

5. Appeals

Hampshire College offers the following bases for appeals from the dismissal of a Formal Complaint or a written determination by the decisionmaker that alleged conduct occurred:

- Procedural irregularity that affected the outcome of the matter;

- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that would affect the outcome of the matter; and
- The Director of Civil Rights Compliance, investigator, or decisionmaker 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.

The appealing party must submit an appeal letter to the Director of Civil Rights Compliance within five (5) business days of receiving the dismissal of a Formal Complaint, or written determination by the decisionmaker. Appeal procedures will be implemented equally for the parties.

Upon receiving the appeal, the Director of Civil Rights Compliance will notify the parties in writing of the appeal by providing:

- Both parties a copy of the appeal
- Providing Respondent a written notice of the allegations if such notice was not previously provided to Respondent, as applicable
- Both parties five (5) business days make a written statement in support of, or challenging, the dismissal of the Formal Complaint, or the written determination by the decisionmaker and response to the appeal

The Director of Civil Rights Compliance will appoint an Appeal Officer to review the appeal and any written responses. The Appeal Officer will not be the investigator or decisionmaker, the Director of Civil Rights Compliance, or the person who dismissed the Formal Complaint (if applicable).

The Appeal Officer will make their determination on the appeal and the Director of Civil Rights Compliance will notify the parties in writing of the result of the appeal and the Appeal Officer's rationale for the result. The Appeal Officer's determination on the appeal is final and there is no further appeal permitted by either party.

6. Emergency Removal and Administrative Leave, Disciplinary Sanctions, and Remedies

During the Procedures, the College may take the following actions, as applicable:

Emergency Removal: The College may remove a Student-Respondent from its education program or activity on an emergency basis after undertaking an individualized safety and risk analysis; determining that an imminent and serious threat to the health or safety of any person(s) arising from the alleged conduct justifies removal; and providing Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Administrative Leave: The College may place an Employee-Respondent on administrative leave during the pendency of the Procedures, as appropriate, in consultation with the Human Resources Office.

Following a determination under the Procedures that the alleged conduct occurred:

Hampshire College may impose **disciplinary sanctions** on a Student-Respondent, which may include and are not limited to:

- Deferred Sanction Statuses
- Disciplinary Probation
- Removal from Campus Housing
- Housing Relocation
- Housing Lottery Restriction
- No Contact Directive (Intentional Avoidance Notice)
- Restitution
- Suspension
- Expulsion

Hampshire College may impose **disciplinary sanctions** on an Employee or Third Party-Respondent, which may include and are not limited to:

- Warning
- Censure
- Education
- Training
- Removal of Privileges
- No Contact Directive (Intentional Avoidance Notice)
- Suspension
- Termination
- Removal from Campus

Hampshire College may also provide **remedies** to Complainant or any other person or the Hampshire Community, which may include and are not limited to:

- Counseling
- Extensions of deadlines or other course-related adjustments modifications of work or class schedules
- Increased security and monitoring of certain areas of campus
- No Contact Directive (Intentional Avoidance Notice)
- Leaves of absence
- Changes in class, work, housing, extracurricular, or any other activity, regardless of whether there is a comparable alternative
- Training and education programs related to discrimination, harassment, and or retaliation

7. Additional Provisions

Hampshire College requires the Director of Civil Rights Compliance, as well as any investigator, decisionmaker, or facilitator of informal resolution, or Appeal Officer to not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. Concerns of bias, misconduct, Discrimination, or a potential conflict of interest by any other decisionmaker under this policy member should be raised with the Director of Civil Rights Compliance.

Documents submitted and/or issued in connection with this Policy and the Procedures—including but not limited to Formal Complaints, notices, investigative reports, evidence, informal resolution agreements, recordings, transcripts, and other information—may not be disclosed or publicized during the Procedures by parties, witnesses, advisors, or support persons, as applicable, except as otherwise described in this Policy or as required or authorized by law.

The Policy prohibits retaliation at all times, including by parties against witnesses.

The College reserves the right to modify this Policy and the Procedures to take into account applicable legal requirements, to address extraordinary circumstances, and/or as it deems necessary to further the purpose and intent of the Policy.

Appendix B: Definitions

Complainant:

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct under the Policy and Procedures; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct under the Policy and Procedures and who was participating or attempting to participate in Hampshire College's education program or activity at the time of the alleged Prohibited Conduct.

Hampshire College, even when the Director of Civil Rights Compliance signs a Formal Complaint pursuant to this Policy, is not a Complainant.

Confidential Employees: An employee of Hampshire College, whose communications are privileged or confidential under federal or state law. The Employee's status as a Confidential Employee is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

Day: A business day, unless otherwise specified.

Disciplinary sanctions: Consequences imposed on Respondent following a determination under the Procedures that Respondent violated the Policy.

Education program or activity: Locations, events, or circumstances in which the College exercises substantial control over both the Respondent and the context in which the prohibited conduct occurs. It also includes any building owned or controlled by a student organization that the College officially recognizes.

Five College Consortium: Hampshire College has joined with Smith College, Mount Holyoke College, Amherst College, and the University of Massachusetts Amherst to form the Five College Consortium.

Five College interchange students and shared employees who take classes or work on Hampshire College's campus are subject to the provisions of this Policy, as well as the applicable policies of their home institution.

Formal Complaint: A document filed by a Complainant or signed by the Director of Civil Rights Compliance alleging discrimination, harassment, or retaliation under this Policy against a Respondent and request that Hampshire College investigate the allegation. As used in this definition, the phrase "document filed by a Complainant" means a document or electronic submission that contains the Complainant's physical or digital signature, otherwise indicates that the Complainant is the person filing the Formal Complaint.

Party: Complainant or Respondent.

Relevant: Related to the allegations of prohibited conduct under investigation as part of the Procedures, including inculpatory and exculpatory evidence. A question is relevant when it seeks evidence that may aid in showing whether the alleged prohibited conduct occurred. Evidence is relevant when it may aid a decisionmaker in determining whether the alleged prohibited conduct occurred.

Remedies: Measures provided, as appropriate, to Complainant or any other person identified by the Director of Civil Rights Compliance as having had their equal access to the College's education program or activity limited or denied by prohibited conduct. These measures are provided to restore or preserve that person's access to the College's education program or activity after the College determines that prohibited conduct occurred under the Grievance Procedures. Remedies may also be directed at the College community as a whole.

Respondent: A person who is alleged to have violated the Policy. Hampshire College is not a Respondent.

Student: A person who has gained admission to Hampshire College.

Supportive Measures: Individualized measures offered, as appropriate, as reasonably available, without unreasonably burdening Complainant or Respondent, and not for punitive or disciplinary reasons, and without fee or charge to Complainant or Respondent to (1) restore or preserve the party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the educational environment; or (2) provide support during the Procedures or informal resolution process.