

Section: 700 – Student Affairs (Student Rights and Prohibitions)

Policy: Title IX/RSA 188-H Sexual Misconduct Policy & Grievance Procedure (Students)

Policy #'s: 730.04

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Approved: Susan Huard, Interim Chancellor

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I. Policy Statement

CCSNH and its Colleges are committed to creating and maintaining a positive and productive learning environment. In furtherance of this objective, CCSNH prohibits discrimination in the administration of its education programs and activities based on sex including conduct that constitutes sexual harassment or other forms of sexual misconduct, as described below. CCSNH also prohibits retaliation against anyone who is involved in making or reporting of a complaint, or in the investigation or hearing of a formal complaint of sexual misconduct/sexual harassment.

II. Scope of Policy and Jurisdiction

CCSNH and its Colleges prohibit sexual misconduct/sexual harassment against any person participating in or attempting to participate in education programs and activities of CCSNH/Colleges. The scope and definitions of sexual misconduct and sexual harassment under federal and state laws differ, as described below.

Sexual misconduct by employees is addressed under Policies 323.01 and 323.02.

A. Title IX Sexual Harassment

Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of a CCSNH/College education program and activity (on campus or any other location within the United States):

1. “Quid pro quo” sexual harassment by a CCSNH/College employee: Conditioning a CCSNH/College aid, benefit or service (such as a promotion or favorable evaluation, or a better grade in a course) on an individual’s participation in unwelcome sexual conduct;
2. “Hostile environment” sexual harassment: Unwelcome conduct based on sex that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual’s equal access to CCSNH/College education programs and activities; or
3. Sexual assault, dating violence, domestic violence and stalking, as defined in the Clery Act and Violence Against Women Act, as follows:
 - i. *Sexual Assault*: An offense classified as a Forcible or Non-Forcible Sex Offense under the uniform crime reporting system of the FBI. Those offenses are –
 - (1) *Non-Forcible Sex Offenses*: incest and statutory rape. In New Hampshire, only children aged 16 and older can give consent to sexual contact with adults unless the two parties are legally married. A teenager under 13 cannot consent to any sexual contact. Children who

- are between 13 and 16 may consent to a sexual act when their partner is less than four years older than they are.
- (2) *Forcible Sex Offenses*: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is in a state of incapacitation. Such sexual acts include:
- Forcible rape: sexual intercourse with a person, forcibly and/or without that person's consent, or in instances where the victim is in a state of incapacitation.
 - Forcible oral or anal sexual intercourse with another person, forcibly or without consent, or because of incapacitation.
 - Sexual assault with an object: use of an object or instrument to unlawfully penetrate, however, slightly, the genital or anal opening of the body of another person, forcibly, or without consent or because of incapacitation.
 - Forcible fondling: the touching of the private body parts (genitals, buttocks or breasts) of another person for the purpose of sexual gratification, forcibly, or without consent, or because of incapacitation.
- (3) *Consent*, for purposes of this policy, means: an affirmative decision to engage in mutually acceptable sexual activity given by clear actions or words. It is an informed decision made freely, willingly, and actively by all parties. Consent is knowing and voluntary. Consent is active, not passive. Accordingly, silence or absence of resistance cannot be interpreted as consent. Consent can be given by words or actions so long as those words or actions may be reasonably understood to give permission regarding sexual activity. Individuals cannot give consent if they are incapacitated due to alcohol or legal or illegal drugs, or under the age of 16.
- ii. *Dating Violence*: physical or sexual abuse, or threats of physical or sexual abuse, or emotional abuse committed by a person:
- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (2) Where the existence of such a relationship is determined based on consideration of: (i) the length of relationship; (ii) the type of relationship; and (iii) the frequency of interaction between persons in the relationship.
- iii. *Domestic Violence*: physical or sexual abuse, or threats of physical or sexual abuse, or emotional abuse among current or former spouses or cohabitants, or people who share a child in common.
- iv. *Stalking*: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- (1) Fear for their safety or the safety of others; or
 - (2) Suffer severe emotional distress.

Sexual harassment which does not meet one of the specific definitions above, or which occurs outside a CCSNH/College education program and activity may be covered under Subsection B or C below.

B. Sexual Harassment Under the New Hampshire Law Against Discrimination

Sexual harassment is defined differently under New Hampshire's discrimination law and regulations. These laws define sexual harassment as: unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's educational benefits or employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for decisions regarding educational benefits or employment affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with a student's academic performance or an individual's work performance, or creating an intimidating, hostile, or offensive environment.

The term "consent" under A.3 above shall also apply, to the extent relevant, to allegations in this section.

C. Sexual Misconduct Under NH RSA 188-H

Sexual misconduct under RSA 188-H is a broadly defined term that includes: (1) all forms of sexual harassment under Title IX, Title VII or State law under subsections A. and B. above; and (2) any other incident of sexual violence, gender-based violence, or violence based on sexual orientation or gender identity or expression.

The term "consent" under A.3 above shall also apply, to the extent relevant, to allegations of sexual harassment under this section.

D. Retaliation

CCSNH also prohibits retaliation against anyone who is involved in the making or reporting of a complaint, or in the investigation or hearing of a formal complaint of sexual harassment. Incidents of retaliation will be addressed under Policy 730.06 (Student Code of Conduct) for alleged retaliation by students.

III. Reporting Sexual Misconduct

- A.** All persons are encouraged to report incidents of sexual misconduct/sexual harassment involving students, and reports may be made without regard to whether the person reporting is the person alleged to be the victim of alleged sexual misconduct/sexual harassment.
- B.** All CCSNH/College employees with supervisory or management responsibilities, and individuals designated as Campus Security Authorities under the Clery Act, who receive information about possible sexual misconduct/harassment of students are required to make a report.
- C.** Reports of sexual misconduct/sexual harassment should be directed to the appropriate Title IX Coordinator and can may be made in person or by calling Megan Conn, Vice President of Student and Community Development at 603-206-8005, email to mconn@ccsnh.edu, or mail to 1066 Front Street, Manchester, NH 03102. The Title IX Coordinator shall notify the CCSNH Director of Human Resources of the report
- D.** A report of sexual misconduct/sexual harassment may also be made to Campus Security, or local or State police [see section V.B below for further information].

IV. Amnesty

To encourage reporting of sexual misconduct/sexual harassment and remove barriers to making a report, an individual who makes a good faith report of sexual misconduct/harassment that was directed at them or another person will not be subject to disciplinary action for a conduct or policy violation that is related to and revealed in the sexual misconduct/sexual harassment report or investigation, unless CCSNH/College determines that the violation was serious and/or placed the health or safety of others at risk. Amnesty does not preclude or prevent action by police or other legal authorities. This amnesty provision shall also apply to student clubs and organizations making a report of sexual misconduct/sexual harassment

V. Outside Support and Additional Reporting Avenues for Victims of Sexual or Gender-based Violence

A. Confidential Resources

1. Victims of sexual misconduct/sexual harassment may pursue assistance and/or support confidentially by contacting a New Hampshire Domestic and Sexual Violence Crisis Center. In Manchester, contact REACH Crisis Services at YMCA NH, 72 Concord St. Manchester, NH 03101, 603-668-2299 (crisis line) or 603-625-5785 (office line). Confidential support services are available to anyone who has been impacted by sexual misconduct, sexual harassment, domestic violence, dating violence or stalking. Services are open and affirming to all, and an individual need not be in crisis to call.
2. Immediate, confidential help is also available by calling:
 - New Hampshire 24-hour Domestic Violence Helpline: 1-866-644-3574
 - New Hampshire 24-hour Sexual Assault Hotline: 1-800-277-5570
 - National 24-hour Sexual Assault Hotline: 1-800-656-4673Conversations with crisis center and crisis line volunteers and advisors (who are also confidential resources) are protected under New Hampshire's confidentiality statute (NH RSA 173-C).
3. Confidential resources can assist with information and referrals to medical and counseling resources and provide additional assistance as appropriate, such as referral to medical facilities where an individual may request that a medical forensic exam be administered by a trained sexual violence forensic health care provider, including information on transportation options and information on reimbursement of travel costs, if any.
4. The above-listed confidential resources can provide emotional support and information or referrals to on-campus and off-campus resources. They can also accompany a reporting party to meetings with the Title IX Coordinator, investigation interviews, discipline meetings or hearings. Confidential resources are not employees of CCSNH.

B. Emergency Medical Services

1. Emergency medical services may also be access directly at:
Catholic Medical Center, 100 McGregor St. Manchester, NH 03103 or
The Elliot Hospital, 1 Elliot Way, Manchester, NH 03103
2. Transportation to available medical services may be accessed via:

The Manchester Transit Authority (MTA) City Bus Service. Free bus passes are available to registered students at the front desk.

3. Assistance with the costs of emergency medical assistance is not available through MCC.

C. Other Supports

1. Additional information concerning counseling, health, safety, academic, and other support services can be obtained by contacting the CCSNH/College Title IX Coordinator, or by contacting the following organizations:

- Kepro – free and confidential counseling available for students. A unique (800) number and access to the Kepro website can be found at the following link under Guidance and Support: <https://www.mccnh.edu/current-students> (Effective 9/1/21)
- Amoskeag Health (formerly Manchester Community Health Center) – (603) 626-9500, 184 Tarrytown Road, Manchester, NH
- National Suicide Prevention Lifeline – (800) 273-8255

2. Individuals accused of sexual misconduct/sexual harassment may seek assistance from a confidential advisor, which may include an advocate or attorney, by contacting the CCSNH/College Title IX Coordinator or the following organizations:

- Legal Resources: [Legal Resources - New Hampshire Coalition Against Domestic and Sexual Violence \(nhcadsv.org\)](http://www.nhcadsv.org)
- Kepro – free and confidential counseling available for students. A unique (800) number and access to the Kepro website can be found at the following link under Guidance and Support: <https://www.mccnh.edu/current-students> (Effective 9/1/21)

D. Reports to Law Enforcement

Victims of sexual misconduct may choose, or decline, to report incidents of sexual misconduct to the MCC Campus Safety Office or local or State police at the numbers/locations below. Individuals may request assistance from the CCSNH/College Title IX Coordinator with contacting law enforcement.

- MCC Campus Safety
(603) 703-8487
- Manchester Police Department
405 Valley Street
Manchester, NH 03103
(603) 668-8711
- State Police, Troop B
16 East Point Drive

Bedford, NH 03110
(603) 666-3334

- United States Attorney's Office [federal law enforcement]
53 Pleasant Street, 4th Floor
Concord, NH 03301
(603) 225-1552

E. Protection Orders

1. Victims of sexual misconduct/sexual harassment may obtain a protection (no contact) order, as well as other supportive measures, from the Title IX Coordinator following a report of sexual misconduct/sexual harassment (see Section VI below).
2. Victims of sexual misconduct involving domestic violence or stalking may pursue a court-ordered protection order by contacting or appearing at the local court:

Manchester District Court (9th Circuit)
35 Amherst Street
Manchester, NH 03101
(855) 212-1234
Monday – Friday 8am – 4pm

3. Individuals who obtain a protection order issued by a court are asked to contact, and provide a copy of the order to, the CCSNH/ College Title IX Coordinator. Upon receipt, CCSNH/College can assist in enforcement of the order as it pertains to the alleged victim's or respondent's participation in CCSNH/College programs or activities, to the extent applicable.

VI. Response to Reports of Sexual Misconduct or Sexual Harassment

A. After A Report Is Made

After a report of sexual misconduct/ sexual harassment, is made, the Title IX Coordinator will meet with the complainant (alleged victim), if they are identified in the report, to discuss and implement any needed supportive measures. Such measures will remain confidential to the extent possible in the particular circumstances.

Supportive measures are individualized services offered to a complainant following a report of sexual misconduct/sexual harassment. Supportive measures may also be provided as appropriate to respondents after a formal complaint is filed. Supportive measures are designed to facilitate a party's ability to access education programs and activities, without overly burdening the other party (prior to a finding of responsibility). Examples of supportive measures include, but are not limited to no contact orders, referrals for services, changes in schedules, etc.

The Title IX Coordinator will explain the process(es) that apply to the allegations raised, including the process for filing a formal Title IX complaint if the conduct may constitute sexual harassment under Title IX.

B. Investigation and Resolution

All reports and complaints of prohibited conduct under this policy will be investigated as expeditiously as possible, with appropriate thoroughness and care to preserve confidentiality to the extent possible.

Formal complaints of allegations involving Title IX sexual misconduct/sexual harassment will be addressed in accordance with Section VII below.

Reports of sexual misconduct that do not constitute sexual harassment under Title IX will be addressed under Policy 730.06 (Student Code of Conduct).

VII. The Title IX Grievance Procedure

The following grievance process shall be followed when there is a formal report of alleged conduct by students that meets the definition of sexual harassment under the Title IX regulations (as defined in Section II.A above).

A. How to Make a Formal Complaint

No investigation will occur unless a formal complaint is filed with the Title IX Coordinator by the complainant, or the Title IX Coordinator decides to file a formal complaint. The formal complaint must be in writing and include the following:

1. Basic information about the possible violation(s) of sexual harassment (such as date, time, location, type of incident, name(s) of individuals involved).
2. A request that CCSNH/College investigate the allegation(s).

The Title IX Coordinator may determine that specific circumstances warrant pursuing a formal complaint (such as when the alleged respondent has previously been found responsible for serious sexual misconduct or there may be a safety threat to the CCSNH/College community), even when the complainant does not file a formal complaint. In such cases, the complainant will receive advance notice as well as notices of activities at various points in the procedure, but is not a party to the case. Likewise, the Title IX Coordinator is not a party, for purposes of this procedure, if they file a formal complaint on behalf of CCSNH/College.

The Title IX Coordinator may consolidate formal complaints where circumstances warrant.

B. Dismissal of Formal Complaints

Under the Title IX regulations, the Title IX Coordinator must dismiss a formal complaint:

1. If the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations (and as defined in Section II.A of this policy); or
2. If the conduct alleged did not occur within the scope of the College's education programs and activities, or did not occur in the United States.

However, if the conduct alleged is otherwise covered by another CCSNH/College policy, the conduct may be addressed under the applicable policy, depending on the circumstances.

The Title IX Coordinator may also dismiss a formal complaint if a complainant withdraws the formal complaint, or withdraws particular allegations within the complaint; if the respondent

is no longer enrolled in CCSNH/College; or if there are specific circumstances that prevent CCSNH/College from gathering evidence sufficient to reach a determination regarding the formal complaint.

If a formal complaint is dismissed for any reason, the Title IX Coordinator will promptly and simultaneously send written notice to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with Section VII.C.9 of this procedure.

C. Steps in the Process

A formal complaint initiates the Title IX Grievance Procedure. The Title IX Coordinator has general responsibility for implementing this procedure. This section outlines the significant steps in the process in summary form.

1. General Obligations of CCSNH/College and Timeline

CCSNH/College will:

- Treat complainants and respondents equitably;
- Not presume a respondent is responsible until and unless such a determination is made following a hearing as provided in this policy;
- Objectively evaluate all relevant evidence;
- Ensure that any individuals involved in the procedure have appropriate training, and do not have conflicts of interest or bias;
- Follow reasonably prompt timelines for conclusion of the procedure and provide reasons for delay;
- Provide all required notices of meetings and hearings;
- Provide opportunities for parties to review and respond to relevant evidence, both favorable and unfavorable;
- Provide parties with the opportunity to be accompanied to any meetings or hearings by an advisor of their choice;
- Provide parties with the opportunity to present witnesses, as well as other relevant evidence;
- Not restrict the parties from speaking about the case for their own emotional support and to prepare their case;
- Assume the burden of gathering evidence and of proof (rather than such burdens resting with the parties); and
- Comply with all applicable confidentiality and privacy laws and regulations during the procedure.

In general, CCSNH/College will attempt to complete the procedure within 90 calendar days. However, there may be circumstances when the process will take longer due to the absence of individuals important to the process, difficulties in obtaining evidence and other reasonable considerations.

Parties may make requests for short extensions of deadlines imposed on them in this grievance procedure for good cause (illness, unavoidable absence of advisor, etc.). Any such request must be made to the Title IX Coordinator in writing and must explain the reason an extension is requested. The Title IX Coordinator shall treat requests from parties for extensions equitably, and shall notify the parties of any extensions that are granted or denied.

2. Notice to Parties and Initial Steps

- i. The Title IX Coordinator will provide written notice of the formal complaint and allegations of sexual harassment potentially constituting prohibited conduct under this policy. The notice will include:
 - Notice regarding the procedure and the availability of an informal resolution process;
 - Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (no less than five calendar days).
 - As required by the Title IX regulations, a statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the grievance process;
 - Notice that the parties may have an advisor of their choice, who may be an attorney;
 - Notice that the parties may inspect and review evidence;
 - Notice of provisions in the conduct processes applicable to students, faculty or staff that prohibits making false reports or providing materially false information in bad faith during the grievance process;
 - Notice that the parties may discuss their case. However, parties should avoid statements that are defamatory; or that disclose other conduct which could be viewed objectively as constituting intimidation or retaliation; or that may impair the integrity of the investigation or procedure;
 - Notice that CCSNH/College, not either party, has the burden of proof;
 - Notice of the name of the investigator, with sufficient time (no less than five calendar days) to raise then-known reasonable concerns of conflict of interest or bias, and the basis for those concerns, to the Title IX Coordinator; and
 - Notice that the parties can raise reasonable concerns regarding the Title IX Coordinator to Jeannie DiBella, Sr. Human Resources Officer at (603) 206-8006 or jdibella@ccsnh.edu.
- ii. If additional allegations become known at a later time, the original notice to the parties will be supplemented. Misconduct which subsequently becomes known but is not covered by this policy may be addressed pursuant to other applicable CCSNH/College policies, as appropriate.
- iii. The Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.
- iv. Prior to a hearing, claims of conflicts of interest, bias or other concerns regarding CCSNH/College officials involved in the procedure will be resolved by the Title IX Coordinator. At the hearing, such claims may be raised with the decision maker.

3. Informal Resolution Process

After a formal complaint has been filed, and if the Title IX Coordinator believes the circumstances are appropriate, the Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and hearing process. An informal resolution process can be started at any time during the grievance procedure. However, an informal resolution process cannot be used to resolve a formal complaint when a student is the complainant and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, facilitated discussions between the parties; restorative justice; acknowledgment of responsibility by a respondent; apologies; agreed upon sanctions against a respondent or requirements to engage in specific services; or supportive measures. Parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time.

Any terms in an informal resolution that include involvement by CCSNH/College must be approved by the Title IX Coordinator. If an informal resolution agreement is reached, it must be signed by the parties and CCSNH/College. Once signed, the agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the procedure.

4. Emergency Leave

CCSNH/College, in consultation with the Title IX Coordinator, may place a student respondent on emergency leave at any point after a formal complaint is filed:

- i. If there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety of a student or other individual arising from the allegations of sexual harassment.
- ii. The respondent will be provided notice of the emergency leave, and will be provided an opportunity to challenge the decision following the removal.
- iii. Any such decision to place a student on emergency leave shall be made in compliance with any applicable disability laws, including the Americans with Disabilities Act and the New Hampshire Law Against Discrimination.

5. Investigation Process

The Title IX Coordinator will appoint an investigator to investigate the formal complaint. The investigator will:

- i. Meet with the parties after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare.
- ii. Allow parties to have their advisor at all meetings (advisors may not speak for the party).
- iii. Allow parties to identify witnesses and submit favorable and unfavorable evidence.
- iv. Interview witnesses and conduct such other activities that will assist in ascertaining facts. The investigator shall prepare written summaries of all interviews.
- v. Consider evidence that is relevant and directly related to the allegations in the formal complaint.

- vi. Prior to completing the investigation report, provide the parties and their advisors with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint. This includes all directly-related evidence, whether the Investigator intends to rely upon it or not in the investigation report, as well as evidence favorable and unfavorable to the parties. The parties will be provided 10 calendar days to submit a written response. The investigator shall consider the parties' written responses prior to completing the investigation report.
- vii. Create an investigation report that fairly summarizes relevant evidence and submit it to the Title IX Coordinator. The investigator may, at their discretion, comment on the credibility of a party, witness, or documentary evidence.

In turn, the Title IX Coordinator shall:

- i. Provide a hard or electronic copy of the investigation report to the parties and advisors (if any) at least 10 calendar days prior to the scheduled hearing, for their review and written responses. The parties and advisors must acknowledge that they will not further disseminate the investigation report to any person, but may use it to prepare for the hearing. Responses to the investigation report must be provided to the Title IX Coordinator within five days of receipt of the report. The Title IX Coordinator shall provide each party with all responses.

In their responses, parties must identify any claims of procedural error in the procedure followed including any claim of conflict of interest or bias by the investigator. The Title IX Coordinator, in consultation with other CCSNH/College officials, will evaluate any claim of procedural error and remedy any error as appropriate, including but not limited to requiring the investigator to interview other witnesses or consider additional evidence.

- ii. Appoint a decision maker, notify the parties of the identity of the decision maker, and provide not less than five calendar days for a written response from the parties raising any concerns regarding a conflict of interest or bias on the part of the decision maker.
- iii. Forward the investigation report and the parties' responses to the decision maker in advance of the hearing.

6. Live Hearing

CCSNH/College shall conduct a live hearing through which a decision maker will consider the evidence, make determinations of responsibility, and impose remedies including, if warranted, disciplinary sanctions.

The Title IX Coordinator shall be responsible for scheduling the live hearing (no less than ten calendar days after receiving the written responses to the investigative report) and notifying persons who need to be present at the hearing. Witnesses will be requested to provide testimony at the hearing. Some important features of hearings include the following:

- i. Under Title IX, CCSNH/College has no authority to compel parties, witnesses or advisors to be present for a hearing.

- ii. At the request of a party, the parties will be in separate rooms with technology to allow the parties and decision maker to see and hear parties/witnesses answering questions.
- iii. The decision maker, not the investigator, makes the final determination of responsibility and impose remedies, including disciplinary sanctions where warranted. The decision maker will not be the Title IX Coordinator or the investigator.
- iv. The decision maker may impose reasonable time limits on opening/closing statements, cross-examination, and comments by the parties and their advisors during the hearing, and shall generally preside over the hearing and enforce the rules of decorum.
- v. The decision maker may ask questions of the parties, their advisors and any witnesses.
- vi. The decision maker shall rule on the relevance of evidence offered or of any question asked of a party or witness prior to the question being answered, especially during cross-examination.
- vii. The decision maker may request input from CCSNH/College officials concerning possible sanctions, either during the live hearing or during the period between the close of the hearing and the issuance of the decision maker's written determination.
- viii. CCSNH counsel may attend the hearing and may provide advice to the decision maker or guidance to the participants during the hearing as needed.
- ix. Parties must have an advisor at the hearing. If a party does not have an advisor at this stage of the process, CCSNH/College will appoint one for the party at no cost to the party.
- x. The Title IX regulations require that advisors (and not the parties) may question parties and witnesses, following rules of decorum.
- xi. A video or audio recording or transcript shall be made of the hearing, and made available to the parties for inspection and review.

7. Standard of Proof and Determination of Responsibility

CCSNH/College uses a preponderance of the evidence standard ("more likely than not") in making determinations of responsibility.

The decision maker shall issue a written determination, which shall include the following:

- i. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy.
- ii. A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- iii. Findings of fact supporting the determination.
- iv. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, and any disciplinary sanctions CCSNH/College imposes on the respondent.
- v. A statement as to whether remedies designed to restore or preserve equal access to CCSNH/College education programs and activities will be provided to the complainant; however, the decision maker shall not identify such remedies. The Title IX Coordinator shall work with the complainant to design remedies consistent with the decision maker's findings.

- vi. The procedure and permissible bases for the complainant and respondent to appeal the determination (or dismissal).

The written determination shall be provided to the parties simultaneously. The determination concerning responsibility becomes final either on the date that CCSNH/College provides the parties with the written determination of the results of the appeal, if an appeal is filed (see subsection 9 below), or if an appeal is not filed, the date on which the appeal period expires. A complaint filed with an external agency is not an appeal for purposes of determining when a finding of responsibility becomes final.

8. Remedies, Supportive Measures and Sanctions

i. Remedies

“Remedies” are measures used to ensure that the complainant has equal access to the College’s education programs and activities following a decision maker’s determination. Such remedies may include supportive measures and depend upon the determination and the needs of the complainant. The Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the complainant.

ii. Supportive Measures

The Title IX Coordinator may continue and/or adjust supportive measures for the complainant following the conclusion of the procedure, based on the complainant’s needs at that time.

iii. Sanctions

Upon determining that a student respondent committed the alleged conduct and thereby violated this policy, the decision maker may impose one or more of the following sanctions:

- **WARNING** - a notice in writing to the student that the student is violating or has violated institutional policy;
- **PROBATION** - a written reprimand for violation of specified policies. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found during the period of probation to be violating any institutional regulations;
- **LOSS OF PRIVILEGES** – denial of specified privileges for a designated period of time (e.g., social probation, vehicular privileges, deactivation of a group, limited access to facilities, persona non grata designation);
- **NO CONTACT** – restriction prohibiting an individual from approaching or contacting a specified individual;
- **FINES** – previously established and published fines may be imposed;
- **RESTITUTION** - compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement;
- **RESIDENCE HALL/CAMPUS HOUSING SUSPENSION** – separation from the residence halls/campus housing for a definite period of time, with conditions for readmission (if appropriate);
- **RESIDENCE HALL/CAMPUS HOUSING EXPULSION** – permanent separation from the residence halls/campus housing;

- CLASS/ COLLEGE SUSPENSION – separation from class(es) or the College for a definite period of time, with conditions for readmission (if appropriate);
- COLLEGE DISMISSAL/EXPULSION – permanent separation from all CCSNH colleges which may include loss of campus visitation privileges.
- EDUCATIONAL OR SERVICE SANCTIONS – imposed in addition to or in lieu of the above sanctions; examples of such sanctions include but are not limited to: work assignments, service to the college, written letter of apology, and mandatory meetings with a college official. Such sanctions require the approval of any person(s) whose participation is required for the completion of the sanction(s).

9. Appeals

Parties have the opportunity to appeal a determination regarding responsibility, and from dismissals of formal complaints. Appeals are allowed on the following grounds:

- i. Procedural errors that affected the outcome of the matter;
- ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- iii. The Title IX Coordinator wrongfully concluded that the formal complaint did not constitute sexual harassment under this procedure and dismissed the formal complaint;
- iv. The Title IX Coordinator, investigator 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; or
- v. A sanction imposed was improper in light of mitigating or extenuating circumstances not known at the time that a Party was provided an opportunity to comment on sanctions, if any, or was not properly considered by the decision maker.

An appeal must be filed in writing within 10 calendar days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Unless granted an extension for good cause by the Title IX Coordinator before the expiration of the appeal period, appeals submitted after this deadline are not timely and shall not be considered.

- i. Appeals must be filed by email with the Title IX Coordinator, who shall refer it to the appropriate appeals officer.
- ii. The Title IX Coordinator shall provide a copy of the appeal to all other parties.
- iii. The other parties shall have seven calendar days to submit a written statement addressing the appeal.
- iv. The officer considering the appeal shall conduct an impartial review of the appeal, including consideration of the record of the matter, and may consult with other CCSNH/College officials and/or CCSNH counsel in making their decision.
- v. The appeals officer shall issue a written decision describing the result of the appeal and rationale for the result, and provide it simultaneously to the parties. The officer may: 1) deny the appeal; 2) grant the appeal and send back the matter to the decision maker for further consideration; 3) grant the appeal and send back the matter for a new live hearing before a new decision

maker; 4) grant the appeal by revising the sanction; or 5) grant the appeal of a dismissal of a formal complaint and order that an investigation be conducted.