



## DARTMOUTH COLLEGE

*Vox Clamantis in Deserto*

### DEPARTMENT OF SAFETY AND SECURITY

*"Committed to providing a safe environment for the pursuit of academic excellence in the spirit of community responsibility."*

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On March 7, 2013, President Obama signed a wide ranging bill, known as the "Campus SaVE Act" into law. The law became effective one year after it was signed. As of the posting of this policy, the negotiated rule making process is underway. Accordingly, it is possible that there will be additional regulations which provide guidance on the law and its application to Dartmouth. In order to begin our efforts to comply with this law, Dartmouth has developed the Policy Statement set forth below. This statement is subject to further revision as the rulemaking process continues. In addition, the policies set forth below may be revised if the College adopts other procedures related to the investigation of sexual misconduct in the future. To the extent it differs from current Dartmouth policy or procedures, the Policy Statement applies to conduct that occurred on or after March 14, 2014.

### Dartmouth College Campus SaVE Policy Statement

#### I. Introduction

Dartmouth College ("Dartmouth") is firmly committed to maintaining an educational environment in which Sexual Harassment and Sexual Assault (collectively referred to in this policy as Sexual Misconduct) is not tolerated, and in which survivors of sexual misconduct are provided support and avenues of redress. Dartmouth will take prompt and appropriate action to prevent sexual misconduct, prevent its recurrence, and remedy its effects on the survivor.

Dartmouth College is committed to the principle of equal opportunity for all its students, faculty, employees, and applicants for admission and employment. For that reason Dartmouth does not discriminate on the basis of race, color, religion, sex, age, sexual orientation, gender identity or expression, national origin, disability, or military or veteran status in its programs, organizations, and conditions of employment and admission. In the areas of discrimination on the basis of sex and gender identity or expression, for example, prohibited discrimination may include adverse actions (whether sexual in nature or not) that are based on animus toward an individual because of sex, gender identity or expression, or that are based on an individual's non-conformity with gender stereotypes. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in all academic, educational, extracurricular, athletic and other programs and activities of Dartmouth College. Title VII of the Civil Rights Act of 1964 and New Hampshire state law prohibit discrimination on the basis of sex in employment. Sexual harassment, sexual assault and other acts of sexual misconduct, as well as domestic violence, dating violence and stalking are forms of sex discrimination prohibited by law and College policy. The prohibition against sex discrimination applies regardless of whether the activity is conducted on campus, off campus, in transit or if sponsored at other locations. In addition to protecting Dartmouth students, faculty and staff, Title IX and Dartmouth policy protect third parties from sexual harassment or sexual misconduct in Dartmouth's programs and activities. (For example, Title IX would protect a visiting student-athlete). If the College learns of prohibited sex discrimination in any of these forms, it will take immediate steps to eliminate the discrimination, harassment or misconduct, prevent its recurrence, and address its effects. Dartmouth provides many resources to students, faculty and staff to address concerns relating to sexual misconduct and other

forms of sex discrimination. Please see <http://www.dartmouth.edu/sexualabuse/help/> for more information.

## II. Definitions.

II.a "Complainant" means a person making a complaint of Sexual Misconduct under this policy. The term "reporting person" may also be used to refer to the person who makes a complaint of Sexual Misconduct under this policy.

II.b "Consent" means clear and unambiguous agreement, expressed in mutually understandable words or actions, to engage in a particular activity. Consent can be withdrawn by either party at any point. Consent must be voluntarily given and is not valid if (i) obtained by physical force, coercion, or threat; or (ii) the other party, acting as a reasonable person, would have known that the person was incapable of giving consent because of incapacitation, unconsciousness, or any circumstance rendering the person unaware that sexual activity is occurring or is about to occur. Consent to engage in one sexual activity, or past agreement to engage in a particular sexual activity, cannot be presumed to constitute consent to engage in a different sexual activity or to engage again in a sexual activity.

II.c "Respondent" means a person or organization accused of Sexual Misconduct under this policy.

II.d "Retaliation" includes but is not limited to pressuring a person to drop or support a complaint of Sexual Misconduct or to provide false or misleading information or engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment. Retaliation may constitute a violation of this policy whether or not a complaint of Sexual Misconduct to which it relates is ultimately found to have merit.

II.e "Sexual Assault" means unwanted or unwelcome touching of a sexual nature, including hugging, kissing, fondling, oral sex, anal or vaginal intercourse, digital penetration, penetration with an object, or other sexual activity that occurs without Consent. Without limitation of the foregoing, Sexual Assault includes the conduct classified as forcible sex offenses (forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling) and non-forcible sexual offenses (incest and statutory rape) under the uniform crime reporting system of the Federal Bureau of Investigation.

II.f "Sexual Harassment" includes any of the following behaviors:

- (i) Hostile Environment -- unwelcome sexual advances, requests for sexual favors, and other visual, verbal, or physical conduct of a sexual nature when the conduct is sufficiently severe or pervasive to deny or limit the victim's ability to participate in or benefit from Dartmouth's educational programs or benefits by creating an intimidating or hostile environment.
- (ii) Quid Pro Quo -- unwelcome sexual advances, requests for sexual favors, and other visual, verbal, or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education, living environment, employment, or participation in a College-related activity or program.
- (iii) Threats/Intimidation of a Sexual Nature – conduct of a sexual nature which reasonably would be expected to have the effect of threatening or intimidating the person at whom such conduct is directed.
- (iv) Dating Violence -- Violence committed by a person
  - (iv)(a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

- (iv)(b) where the existence of such a relationship shall be determined based on a consideration of the following factors:
1. the length of the relationship.
  2. the type of relationship.
  3. the frequency of interaction between the persons involved in the relationship.
- (v) Domestic Violence – Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the crime occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction where the crime occurred.
- (vi) Stalking -- Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.
- (vii) "Sexual Misconduct" is a collective term which includes Sexual Harassment and Sexual Assault as defined in this policy. It also includes retaliation against a person for making a good-faith report of Sexual Misconduct or participating in good faith in a Sexual Misconduct investigation.
- (viii) "Student" means an individual enrolled as an undergraduate or graduate student in any Dartmouth College school or department, or a person enrolled in a Dartmouth College educational program, whether or not currently in attendance.
- (ix) "Student Organization" means a recognized Dartmouth student organization and for purposes of this policy includes but is not limited to athletic teams, clubs recognized by the Committee on Student Organizations or other official College bodies, Greek letter organizations, and societies.

### III. Reporting an incident:

III.a Dartmouth College encourages the accurate and prompt reporting of any criminal activity to the Hanover Police Department. The Hanover Police Department can be reached by calling "911" or, in a non-emergency situation, by calling 603-643-2222. Any student, faculty member, employee or guest can directly report suspected criminal activities or emergencies on campus by calling the Department of Safety and Security ("DOSS") at (603) 646-4000 (6-4000 from campus phones) or for emergencies (603) 646-3333 (6-3333). Trained communications personnel are available 24 hours a day to respond to calls. In the event that Dartmouth College becomes aware of a crime and the victim of the crime elects or is unable to report the crime, Dartmouth College will report the crime to the Hanover Police Department and advise that it is making the report because the victim is unable or unwilling to make the report.

III.b Reporting Options: Any student or employee has the option to report Sexual Misconduct or any other crime to the local law enforcement agency. Students and employees also have the option of reporting Sexual Misconduct to the DOSS. However, DOSS is not a police department and does not enforce criminal laws. Students and employees have the option of having campus authorities, such as DOSS, a dean, a Sexual Assault Prevention Coordinator, a Human Resources staff member, or others

assist the student or employee who wishes to report a crime to law enforcement. A student or employee also has the right to decline to notify law enforcement and DOSS of Sexual Misconduct.

III.c Preservation of evidence: It is important that a victim of domestic violence, dating violence, sexual assault, or stalking preserve any physical evidence as may be necessary to the proof or in obtaining a protective order. Local law enforcement, the Department of Safety and Security, the staff of the Sexual Assault Awareness Program and the staff in the emergency department at the closest hospital can assist a victim in determining what evidence to preserve and how to do so.

III.d Accommodations; Interim measures: Regardless of whether the victim chooses to report the Sexual Misconduct to Dartmouth College or to local law enforcement, the victim may be able eligible for changes to the victim's academic, living, transportation, and working situations if such accommodations are reasonably available.

III.e "No contact" orders: If the accused is a member of the Dartmouth Community, the victim has the right to request that Dartmouth issue a "no contact" order that will direct the accused not to have any contact with the victim. In addition, the victim has the right to request restraining orders, or similar lawful orders issued by a criminal, civil or tribal court. Employees of Dartmouth can assist a victim in accessing resources from the court systems to pursue these options; however Dartmouth cannot obtain these orders on the victim's behalf.

III.f Information and support resources: Any student or employee who has concerns about sexual harassment, sexual assault and other acts of sexual misconduct, as well as domestic violence, dating violence and stalking including sexual violence, is encouraged to seek the assistance of the following:

For students:

Heather L. Lindkvist  
Title IX Coordinator and Clery Act  
Compliance Officer  
Dartmouth College  
6004 Parkhurst Hall 009  
Hanover, NH 03755

[heather.l.lindkvist@dartmouth.edu](mailto:heather.l.lindkvist@dartmouth.edu)  
603.646.0922

Dartmouth Safety and Security  
(603) 646-4000  
(603) 646-3333 (for emergencies)  
available 24/7

Sexual Abuse Awareness Program  
[SAAP@dartmouth.edu](mailto:SAAP@dartmouth.edu)  
(603) 646-9414

For employees:

Heather L. Lindkvist  
Title IX Coordinator and Clery Act  
Compliance Officer  
Dartmouth College  
6004 Parkhurst Hall 009  
Hanover, NH 03755

[heather.l.lindkvist@dartmouth.edu](mailto:heather.l.lindkvist@dartmouth.edu)  
603.646.0922

Dartmouth Safety and Security  
(603) 646-4000  
(603) 646-3333 (for emergencies)  
available 24/7

Your supervisor  
Human Resources  
The College Ombudsperson:  
Mary Childers  
[Mary.Childers@dartmouth.edu](mailto:Mary.Childers@dartmouth.edu)  
<http://www.dartmouth.edu/~ombuds/>  
(603) 646-9872

For further information, see:

Sexual Abuse Awareness / Get Help

<http://www.dartmouth.edu/sexualabuse/help>

IV. Confidentiality: Dartmouth will protect the confidentiality of victims to the extent permissible by law. As a private institution, Dartmouth's records regarding students and employees are generally not subject to access under the Freedom of Information Act or other open records laws. If Dartmouth is conducting an investigation to determine whether or not to sanction the individual accused of sexual misconduct, Dartmouth will typically have to identify the victim to the accused, and in some cases, witnesses, in order to conduct an impartial and fair investigation.

V. Complaint procedures

V.a. Features common to all complaint procedures:

(i) Investigations

Following a report of sexual misconduct Dartmouth will conduct a prompt, fair and impartial investigation. An investigation is generally conducted to provide the most accurate information available. Even if the report is also made with the Hanover Police Department or another law enforcement agency, the College will conduct its own investigation in all cases, and will only delay its investigation to the extent necessary to avoid interfering with the criminal investigation. If the College defers to a criminal investigation for some period of time, interim measures will be considered and implemented as deemed necessary.

When the investigation is conducted by Dartmouth, the individuals who conduct the investigation will receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Investigations usually begin by asking the reporting person for a statement containing information about the conduct. The investigation may involve requesting additional statements from the reporting person or responding person and any witnesses, taking photos of individuals and/or the locations involved, and communicating with the individuals involved, and requesting information from other sources, such as law enforcement agencies. Once the investigation is completed, the results of the investigation are compiled by staff in the appropriate office, which will then make a determination about whether or not to charge the responding person with a violation of College policy.

The College will conduct investigations in as confidential a manner as practicable, sharing information with administrators and staff only as necessary to appropriately allow them to execute their professional responsibilities, and with witnesses and others only as necessary for the College to reasonably solicit information and perform the investigation.

Investigations will usually be completed within 60 days from when the College receives the report, with some variation possible where necessary (for example, depending upon witness availability, academic calendar-related issues, the pendency of a criminal investigation to which the College decides to defer for some limited period of time, etc.)

(ii) Presence of Advisors

The reporting person and the responding person are entitled to the same opportunities to have others present during the institutional proceedings, including the opportunity to be accompanied to any related meetings or proceedings by the advisor of their choice.

(iii) Standard of Evidence

Dartmouth will use the "preponderance of the evidence" standard to determine whether or not someone has engaged in sexual misconduct.

(iv) Outcome

Both parties will be notified simultaneously and in writing (which may include email) of the outcome of the disciplinary proceeding, to the extent permitted by law, the procedure for appealing the decision, any changes to the outcome that occur prior to the time that the results become final and when the results become final.

Usually, written notice of the initial outcome will occur within 14 days of the conclusion of any investigation, hearing, and/or appeal, absent extenuating circumstances. If the responding student is found responsible, the reporting student will be advised of the sanction imposed, to the extent allowed by law.

The notice of the outcome shall include information about the appeal procedure. If as a result of an appeal, an outcome is changed, both parties shall be informed in writing of the change. Both parties shall be informed when the results become final.

(v) Reporting Immunity

A student who reports sexual misconduct, sexual assault, domestic violence, dating violence or stalking will not be charged for violations of Dartmouth's Alcohol or Other Drug Policy for activities that are related to the events leading to the report of misconduct.

V.a. Procedures unique to each group on campus

(i) Students

Cases involving undergraduate and graduate students will be adjudicated using the procedures set forth below. While there are different procedures for adjudicating graduate and undergraduate students, the sanctions are the same and are set forth in a single section below.

(i)(a) Complaints against undergraduate students

In cases involving undergraduate students, the following procedures will apply in addition to those listed above:

Reports of Sexual Misconduct will be handled through the College's Committee on Standards ("COS") process included in the Dartmouth College Student Handbook (available at: <http://www.dartmouth.edu/~deancoll/student-handbook/standards.html>.) with some modifications unique to such cases that are described below. COS procedures will be followed in such cases to the extent they do not conflict with the modifications outlined here, and where there are conflicts, the modifications outlined here will control. The reporting student and the responding student are entitled to the same opportunities to have others present during the institutional proceedings, including

the opportunity to be accompanied to any related meetings or proceedings by the advisor of their choice.

In cases in which the College acts essentially as the reporting student because it decides to go forward with a disciplinary case in which the student allegedly subjected to sexual misconduct chooses not to participate, it will apply the process described in this section to the extent practicable.

*Deadlines and Extensions* - If a party needs to extend a time line stated in COS procedures or a deadline provided by the UJAO in a particular case, he or she should contact the individual who is administering the investigation and/or hearing process, and provide a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The other party will be informed of the request for extension and be given an opportunity to respond as to whether it should be granted or denied. The responsible administrator will decide whether or not to grant the request or provide a shorter extension, and will inform the parties of that decision.

*Allegations* - After the investigation is complete, the Director of Undergraduate Judicial Affairs, in consultation with others as needed, will determine if there is sufficient evidence to warrant a disciplinary allegation. The decision regarding the level of the charge (minor or serious) is based on the information available at the time of review. If an allegation is considered serious enough to warrant a possible suspension or separation from the College, the responding student will receive a letter from the UJAO specifying the allegation, providing the information gathered during the investigation and describing the potential outcomes. Most cases that involve domestic violence, dating violence, sexual assault and stalking will be charged at the serious or COS level because separation or suspension is possible. In cases where separation or suspension is possible, a letter is sent to the parents of the responding student informing them of the pending case.

In light of the College's obligations to address Sexual Misconduct in a timely manner, the College cannot delay its disciplinary proceedings because a responding student is also facing related criminal charges. The College will proceed with disciplinary proceedings and take appropriate action to the extent practicable and consistent with the College's protocols with the Hanover Police Department, or other applicable law enforcement agencies, even if the responding student chooses not to participate in the College's process.

The allegation/charge materials that the responding student receives will include a letter outlining the specific College policy involved and the supporting documentation (reports from Safety and Security, witness statements, statement from the reporting student, etc.). Both the reporting student and the responding student will also receive a list of resources, and an overview of sanctioning considerations in cases from the past several years (See examples at <http://www.dartmouth.edu/~uja/conduct/index.html>).

Reporting students and responding students will receive a copy of the materials in the form of a final case packet and may review the material with their advisors. If there is information that reporting students or responding students would like to challenge in the materials, they may submit additional materials to clarify their perspective. Students may also request that additional witnesses be contacted or that additional information be gathered. Procedural opportunities afforded through the investigation, charging and pre-hearing processes will be provided to both parties on an equal basis.

For example, both parties will be afforded similar and timely access to any information that will be used at a hearing, will be offered the opportunity for similar pre-hearing meetings, and will have a similar opportunity to identify and present relevant witnesses and other evidence.

Forms used by COS in the disciplinary process will be provided to involved students as appropriate by the UJAO.

*Hearings* - Once a student has been charged with sexual misconduct, Dartmouth will use its best efforts to provide a fair, prompt and impartial hearing process to determine whether or not the student engaged in the conduct alleged.

*Dean's Hearing* - If a responding student admits the allegation(s), he/she can have a hearing before the COS or request a one-on-one hearing with a COS chair. If a student requests a one-on-one hearing, he/she must provide a statement detailing his/her actions and must admit responsibility for the violations charged. The chair hearing the case has the option to deny the request for the one-on-one hearing if there are sufficient facts called into question or if the chair feels that a committee should hear the case. The principle purpose for the Dean's Hearing is to determine the appropriate sanction for the conduct.

*COS Hearings* - If an responding student denies the allegation(s), the case will usually be scheduled for a hearing before the COS. In cases where COS hearings will be held, both parties will receive notice in advance of the COS members who have been selected by the UJAO to hear the case. If a party objects to a panel member because he or she believes that the member would not be fair and impartial, he or she should submit an objection in writing (including email) to the UJAO within 24 hours of notice. The UJAO will make a decision on such objections, and will repeat the notification and objection process as necessary, involving both parties, until the UJAO believes that a fair, impartial panel has been selected.

*Participation* - The reporting student has the right to attend and to participate in the hearing. The reporting student may appear in person, either with or without a screen to separate him or her from the view of the other attendees, by phone, or by videoconference. The reporting student and the responding student will have the opportunity to present relevant witnesses and other evidence at a COS hearing, they will be allowed a similar opportunity to present character witnesses (but only if either party is allowed to do so), and each party will have a similar opportunity to hear and review statements provided by the other party and witnesses. Direct cross-examination of witnesses, including the reporting student is not allowed. The Chair determines what questions will be asked and poses the questions.

*Open or Closed Hearings* - Ordinarily in the COS process, students are given the opportunity to identify their preferences for an open or closed hearing. If no preference is listed, the hearing will be open to the Dartmouth community. Any current student, faculty or staff member can attend an open hearing, including student media. The Chair may limit the number of observers permitted to be present. Open hearings provide a valuable learning opportunity for the Dartmouth community, but reporting students and responding students should balance this with their own concerns about personal privacy. If the reporting student requests a closed hearing, the hearing will be closed. The COS Chair has the authority to close a hearing if he/she feels that it is appropriate to protect privacy or the process. In a hearing of two or more responding students, any one student's request for a closed hearing shall take precedence over the request of another for an open hearing. In a closed hearing, only the Committee, the witnesses, the responding student, the reporting student, the advisors, the observers (see below) and other such persons as are specifically authorized to attend by the Chair,

may be present. In a closed hearing, students can request that an observer attend the hearing to provide support. Any observer is required to adhere to the observer expectations listed in the Student Handbook.

*Observers* - Both the responding student and the reporting student may request that an observer be present during the hearing to provide additional support. The observer must be any current student, faculty, or staff member who is not involved in the hearing as a witness. Students who have potential criminal charges arising out of the same conduct may request that an attorney be present as their observer. If the responding student is permitted to have legal counsel present, the reporting student may have legal counsel present as well, with the same rights to confer during the hearing. No legal counsel will be allowed to address the panel or Chair, cross-examine witnesses, or otherwise participate in COS hearings beyond consulting privately with their clients.

Observers (other than legal counsel where their presence is permitted under College rules) may not confer with the student or the student's advisor while the hearing is in session, and will be subject to the same confidentiality expectations applicable to others in attendance. If the student participant wishes, observers may confer with the student during breaks in the hearing. The Chair may remove any observer who distracts from or disrupts the hearing process. In addition, COS members, or others designated by the Chair may observe a hearing as part of orientation and training.

*COS Decisions* - After hearing the evidence, the COS will determine whether or not the accused student is responsible for the violations of the Standards of Conduct. A majority vote for a finding of responsibility is required. Responsibility for a violation of a Standard of Conduct is determined by a preponderance of the evidence.

*Requests for Review* - Reporting and responding students may request review of decisions related to charges of Sexual Misconduct.

Requests for review may be made only on the basis of one or more of the following grounds:

1. procedural error which has materially prejudiced the student's case;
2. newly discovered information which, had it been available at the time of the hearing, would likely have affected the outcome either with regard to a finding of responsibility or with regard to the sanction imposed (if the information was not reasonably available to the student at the time of the proceeding).

The reviewing dean has the sole discretion to determine whether either of these standards for review has been met. A request for review must be in writing and must set forth in reasonable detail the grounds for review, and must have attached to it any materials the student wishes to have considered in his or her request. The request, with all accompanying materials, must be submitted by the student within seven (7) days of the date of the written decision in his or her case.

Following review, the Dean may uphold the original decision, adjust the sanction as the Dean deems appropriate, or refer the matter back to the Dean or the COS panel that heard the case for further consideration.

The reporting student and the responding student will be advised simultaneously and in writing of the Dean's decision and any changes that flow from that decision. The reporting student and the responding student will be advised in writing when a decision has become final.

(i)(b) Complaints against graduate students

Notification of the charges against a responding student shall be in writing and shall contain a concise statement of the alleged facts which constitute the violation. At this time, the responding student will be asked if they would like to respond directly to the Dean about these charges, either directly in a meeting or in writing. A responding student shall have a reasonable time to respond to the notification of charges.

A responding student may choose to admit to the charges as stated. In such cases the Dean of Graduate Studies will determine the appropriate penalty. If the responding student does not admit to the charges stated, the Dean will conduct a hearing with a committee to review the case. This committee will consist of three graduate faculty, the Dean and Assistant Dean, and background evidence related to the issue may be provided to the committee prior to the hearing.

A responding student may choose an advisor, from current Dartmouth faculty, staff, or students, to assist in the defense at a disciplinary hearing. The advisor's role is to assist the student in reviewing and understanding the procedures related to a hearing and to assist the student in obtaining answers to questions about the hearing. While an advisor might appropriately help a student anticipate questions and issues likely to arise at a hearing, or provide feedback about the effectiveness of a student's written or oral presentation of the facts, the advisor does not function in the way an attorney would in a criminal or civil proceeding.

The student may elect to have a private hearing or an open hearing, but the Dean may limit the number of persons at an open hearing, and may, if a disturbance occurs, order the hearing to be conducted in private. In cases where the need to protect privacy is, in the judgment of the Dean, important, the Dean may close the hearing over the objection of the charged student(s). If the reporting student requests a closed hearing, the hearing will be closed.

A responding student may refuse to make any statement at the hearing. Such refusal shall not be considered as evidence against the student.

The responding student shall have the right to hear and question any witnesses and to examine all other evidence introduced at the hearing. The responding student has the right to testify and present evidence and witnesses in his/her own behalf.

The Dean shall base his or her decisions on matters of fact and solely upon evidence introduced at the hearing.

Formal rules of evidence shall not apply. The Dean may consider any testimony or evidence unduly repetitious or immaterial, or to have been improperly obtained.

If the results of the disciplinary hearing are to become a part of a student's record, either temporarily or permanently, notice shall be given to the student concerned.

Decisions by the Dean may be revealed to authorize College personnel, to the responding student, and, in appropriate circumstances, to the responding student's parents or guardian and the reporting student. In cases where the outcome will affect the visa status of an international student, the Dartmouth International Office will be notified by the appropriate registrar, and the student must comply with any change in federal immigration status which occurs.

The Dean hearing a case may choose to comment publicly, in writing or otherwise, regarding the decision reached if, in the judgment of the Dean, the best interests of the community would be served by such disclosure. If possible and appropriate, the anonymity of the student(s) involved will be protected.

Either the responding student or the reporting student, or both, may appeal the Dean's decision and the sanction (see Appeals Board on Standing and Conduct for Graduate Students in Arts and Sciences Programs) within a reasonable time (no more than one week after notification of the Dean's decision).

Appeals may be made only on the basis of one or more of the following grounds:

1. procedural error which has materially prejudiced the student's case;
2. newly discovered information which, had it been available at the time of the hearing, would likely have affected the outcome either with regard to a finding of responsibility or with regard to the sanction imposed (if the information was not reasonably available to the student at the time of the proceeding).

Following review, the Committee may uphold the original decision, adjust the sanction as the Committee deems appropriate, or refer the matter back to the Dean that heard the case for further consideration.

The reporting student and the responding student will be advised simultaneously and in writing of the Committee's decision and any changes that flow from that decision. The reporting student and the responding student will be advised in writing when a decision has become final.

#### (i)(c) Sanctions

##### i. General Sanctioning Considerations for cases involving students:

For any disciplinary system to be credible, consistency must be a central element. Ideally, over time, precedent should develop to show that similar violations result in similar outcomes. This provides the community with a basic understanding of the consequences that result from specific behavior.

However, for a disciplinary system to be fair it must be flexible enough to respond to each student as an individual and to the particular facts and circumstances of each case. Sanctions should reflect the institution's desire to educate the student and the community and should also reflect the given set of circumstances of the case. Sanctioning decisions at Dartmouth seek to balance the competing goals of consistency of the process with the flexibility required to provide fairness to individual students. Dartmouth also strives to focus on what is educationally appropriate given the facts of each case.

If a student is found responsible for a violation, an appropriate sanction will be determined based on the specific facts of the case, the student's intent, the student's candor and credibility during the process, the student's prior disciplinary history, and the information set forth below about conduct expectations and the outcomes of prior cases. The sanctioning decision will be informed by the degree to which the behavior was intentional, irresponsible, or without knowledge. In addition, if a student is found responsible, aggravating factors in sanctioning may include whether or not the student responsible was substantially motivated by the victim's race, color, religion, sex, age, sexual orientation, gender identity or expression, national origin, disability, or military/veteran status.

##### ii. Types of Sanctions in Sex Misconduct Cases

The range of sanctions generally applicable to violations of the Standards of Conduct (described below) are applicable in cases of sexual misconduct. To protect the community, however, students found responsible for engaging in actual or attempted sexual penetration without consent, or who are found responsible for repeated sexual misconduct, should be prepared to be permanently separated from the College. Where the facts and circumstances justify mitigating to a lesser sanction of suspension or probation for a Sexual Misconduct Policy violation, students found responsible may also be subject to the following to promote the College's educational mission and to minimize disruption to the campus community:

- Required educational activities appropriate to the facts and circumstances of the case
- Required limitations on campus activities, including limited access to specific facilities or areas of the campus, adherence to the terms of "No Contact" orders, and other restrictions appropriate to the circumstances.

Failure to comply with stated conditions of a disciplinary sanction may result in further disciplinary action, up to and including separation from the College.

- In general, the COS or the applicable Dean typically selects from among the following sanctions:
- *Warning* - Hearing officers issue warnings for students to exercise better judgment. A Warning is recorded in the student's file in the Undergraduate Deans Office, but it is not reflected in the student's transcript and is an internal sanction only. Students who have received a Warning do not have to report this as disciplinary action to outside agencies. Warnings in a student's file may be considered in any future disciplinary proceedings.
- *Reprimand* - Reprimands are issued for minor misconduct. A reprimand is recorded in the student's file in the Undergraduate Deans Office but is not reflected in the student's transcript. Like warnings, reprimands are recorded for internal purposes only and are not considered part of a student's permanent disciplinary record. Reprimands in a student's file may be considered in any future disciplinary proceedings.
- *College Probation* - Probation is imposed for repeated minor misconduct, incidents that involve multiple violations or serious violations that do not warrant suspension. College Probation may be imposed either with or without restrictions for a period up to the duration of the student's undergraduate career. Notification of probation will normally be sent to parents. Like warnings and reprimands, probation is recorded for internal purposes only and is not considered part of a student's permanent disciplinary record. Probation may be considered in any future disciplinary proceedings. Students on probation at the time of another incident will likely face suspension-level charges.

College Probation may include, but is not limited to, making restitution for damage caused, prohibiting a student from owning, operating, or maintaining a motor vehicle on campus, preventing participation in intercollegiate athletics or performances of College-associated organizations, or making a student ineligible for service as an officer in student organizations or on College committees, among other possible and appropriate actions.

- *Suspension* - A student may be suspended for misconduct found to be sufficiently serious to warrant removal from the College community for a specified number of terms. Notification of allegations at this level normally will be sent to parents. Students suspended from the College must leave campus within 48 hours. Students who are suspended are not allowed to come back to campus unless they

have completed all of the requirements of the sanction and they receive permission from their class dean. Requirements may be imposed in connection with suspension, such as participation in a medical assessment and any recommended treatment, paying restitution for damages caused, or restrictions on campus housing.

Suspended students may not participate in College academic or extracurricular activities; may not remain in College or coed, fraternity, sorority housing; and may not progress toward completion of their Dartmouth degrees by taking courses at other institutions while under suspension.

Suspension is recorded in the student's file and on the student's transcript for the period of suspension. Students who have been suspended must answer any question as to whether they have been subject to disciplinary action at Dartmouth in the affirmative. Suspensions will be considered in any proceedings resulting from further violations of the Standards of Conduct.

Readmission following suspension is not automatic and must be by application to the Dean's Office. At the conclusion of the term(s) of suspension and completion of any conditions of the sanction, a student who chooses not to apply for readmission can request a change in College status from suspended to withdrawn.

- *Separation* - Separation is permanent removal from the College community. A student will be separated only for extremely serious misconduct or for serious misconduct subsequent to suspension. Separated students will not normally be eligible for readmission. The student must leave campus housing within 48 hours of notification of separation. Separation is recorded in the student's file in the Deans Office and on the student's transcript.
- *Special Action* - The COS or the Dean may take other action appropriate to particular circumstances not covered in the preceding list. Some examples of these actions include removal from housing, prohibition on attending athletic events, limiting access to particular areas of campus, or other actions deemed appropriate by the dean or by the COS.

(ii) Complaints against faculty members

Complaints of Sexual Misconduct by members of the Faculty shall be resolved pursuant to the procedures set forth in the Agreement Concerning Academic Freedom, Tenure, and Responsibility of Faculty Members Voted by the Board of Trustees (January 15, 1971) after approval by the Faculty (October 19, 1970) as amended June 12, 2009. (<http://www.dartmouth.edu/~dof/ofdc.pdf>.)

Those procedures shall be modified to the extent necessary to ensure the following requirements are met: The procedures must

- (ii)(a) Provide for a prompt, fair, and impartial investigation and resolution.
- (ii)(b) Be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault and stalking and how to conduct a hearing process that protects the safety of victims and promotes accountability.
- (ii)(c) Provide to the accuser and the accused the same opportunities to have others present during the disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.
- (ii)(d) Simultaneously inform the accuser and the accused, in writing, of:

- i. the outcome of the disciplinary proceeding;
- ii. the procedures for the accused and the victim to appeal the results of the disciplinary proceeding;
- iii. any changes in the results that occur prior to the time that such results become final; and
- iv. when the results become final.

(ii)(e) Faculty members can expect sanctions ranging from a written reprimand to termination for sexual misconduct.

(iii) Complaints against staff

Procedure: The procedures for resolving complaints of Sexual Misconduct by staff shall, at a minimum:

(iii)(a) Provide a prompt, fair, and impartial investigation and resolution.

(iii)(b) Be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault and stalking and how to conduct a hearing process that protects the safety of victims and promotes accountability.

(iii)(c) Provide to the accuser and the accused the same opportunities to have others present during the disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.

(iii)(d) Simultaneously inform the accuser and the accused, in writing, of:

- i. the outcome of the disciplinary proceeding;
- ii. the procedures for the accused and the victim to appeal the results of the disciplinary proceeding;
- iii. any changes in the results that occur prior to the time that such results become final; and
- iv. when the results become final.

(iii)(e) Staff members can expect a sanction ranging from written reprimand to termination for sexual misconduct.

VI. Written notice of rights and options: Dartmouth will provide students, faculty and staff who report Sexual Misconduct with written information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community. Dartmouth will provide students, faculty and staff who report Sexual Misconduct with written information about options for and available assistance in changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Dartmouth will provide students, faculty or staff who report to the institution that they been a victim of domestic violence, dating violence, sexual assault and stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the employee's rights as described in clauses (ii) through (vii) of (f)(8)(B) of the Campus SaVE Act.

## VII. Educational programs

Dartmouth provides educational programs to promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking. The programs include primary prevention and awareness training for incoming undergraduate and graduate students, incoming faculty and incoming staff. The programs also include ongoing prevention and awareness campaigns for existing undergraduate and graduate students and existing faculty and staff. Each program includes the following information:

- VII.a. Dartmouth's policy prohibiting domestic violence, dating violence, sexual assault and stalking.
- VII.a. The definitions of those offenses in the applicable jurisdiction.
- VII.a. The definition of consent within the applicable jurisdiction, and for students, the applicable College policies.
- VII.a. Safe and positive options for bystander intervention to prevent harm or intervene in risky situations.
- VII.a. Recognition of the signs of abusive behavior and how to avoid potential attacks.
- VII.a. The information described in 20 USC 1092 (f)(8)(B)(ii) through (vii).