

Appendix A: Definitions of Terms Used in this Policy

The following definitions apply to the terms used in this policy:

- **Advisor.** Any person chosen by a party, or at the request of the party appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **The Title IX Coordinator.** The person with primary responsibility for overseeing and enforcing this policy. As used in these policies and procedures, “the Title IX Coordinator” also includes their designee(s).
- **Appeal Officer.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s), accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or Other Prohibited Conduct under this policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment under the Policy and who was participating or attempting to participate in the college’s education program or activity at the time of the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct.
- **Complaint.** An oral or written request to the college that can objectively be understood as a request for the college to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
 - An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - An employee whom the college has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, retaliation, or other prohibited conduct. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about discrimination, harassment, retaliation, or other prohibited conduct in connection with providing those services; or
 - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, retaliation, or other prohibited conduct. The employee’s confidential status only applies with respect to information received while conducting the study.
- **Day.** A business day when the college is in normal operation. All references in the policy to days refer to business days unless specifically noted as calendar days.

- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether the policy has been violated and/or assigns sanctions.
- **Education Program or Activity.** Locations, events, or circumstances where the college exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or other prohibited conduct occurs and also includes any building owned or controlled by a student organization that the college officially recognizes.
- **Employee.** A person employed by college either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the preponderance of evidence standard that the alleged conduct did or did not violate the policy.
- **Finding.** A conclusion by the preponderance of evidence standard that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Formal Resolution Process.
- **Investigation Report.** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by college to gather facts about an alleged violation of this policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Notice.** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of discriminatory, harassing, retaliatory, or other prohibited conduct.
- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against discrimination and harassment by law or college policy.
- **Relevant Evidence.** Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, retaliation, or other prohibited conduct occurred, or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the college’s education program and activity.

- **Required Reporter.** A college employee who is obligated by this policy to share knowledge of or reports of discrimination, harassment, retaliation, and/or other prohibited conduct with the Title IX Coordinator.¹
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Administrative Action, Informal Resolution, and Formal Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute prohibited behavior under this policy.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Student.** Any person who has gained admission.
- **The Title IX Coordinator.** The official designated by the college to ensure ultimate oversight of compliance with Title IX and the college's Title IX program. References to the Title IX Coordinator throughout the policy may also encompass a designee of the Title IX Coordinator for specific tasks.
- **Title IX Team.** The Title IX Coordinator and the Deputy Title IX Coordinators.

¹ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have required reporting responsibility under this Policy.

Appendix B: Maine State Law

This policy complies with a number of Maine state laws that address discrimination and harassment, including [“An Act Concerning Interpersonal Violence on College Campuses.”](#) This appendix provides information to help individuals understand:

1. the college’s responsibilities under these laws;
2. definitions used by the State for terms that are similar to the ones used in this policy; and
3. criminal statutes that address discrimination, harassment, sexual violence, stalking, and interpersonal violence.

Definitions

Affirmative Consent: Consent to sexual activity that can be revoked at any time. “Affirmative Consent” does not include silence, lack of resistance or consent given while Intoxicated.

Domestic Violence: In Maine, domestic violence includes the following crimes (more information available through legal citations): Domestic violence assault ([17-A M.R.S. § 207-A](#)); Domestic violence criminal threatening ([17-A M.R.S. § 209-A](#)); Domestic violence terrorizing ([17-A M.R.S. § 210-B](#)), Domestic violence stalking ([17-A M.R.S. § 210-C](#)); Domestic violence reckless conduct ([17-A M.R.S. § 211-A](#)).

Intimate Partner Violence. Any of the acts that constitute abuse under [Title 19-A, section 4102](#) that are committed by an individual who is or has been in a social relationship with another individual of an intimate nature regardless of whether the individual were or are sexual partners.

Intoxication: A substantial impairment of an individual’s mental or physical faculties as a result of drug or liquor use ([28-A M.R.S. § 2503\(2\)](#)).

Sexual Harassment: “Sexual harassment” under Maine law is different than “Sex-Based Harassment” under Title IX (federal law). Under Maine law, “sexual harassment” means “verbal or physical conduct of a sexual nature directed at a specific person, including, but not limited to, unwelcome sexual advances, sexually suggestive remarks or actions; unwanted hugs, touches or kisses; and requests for sexual favors.” It also “includes retaliation for communicating about or filing a complaint of sexual harassment.”

Sexual Violence. Any conduct that constitutes:

1. Any crime under [Title 17-A, chapter 11](#) (Sexual Assaults);
2. Unauthorized dissemination of certain private images pursuant to [Title 17-A, section 511-A](#);
3. Aggravated sex trafficking or sex trafficking pursuant to Title [17-A, section 852 or 853](#) respectively; or
4. Sexual Harassment as defined in [Title 14, section 6000, subsection 2-A.77](#)

Stalking: any conduct that constitutes the crime of stalking under [Title 17-A, section 210-A](#).

State of Maine Laws Regarding Harassment, Discrimination, and Civil Rights

[“An Act Concerning Interpersonal Violence on College Campuses”](#)

[Information re: hate crimes](#)

[Maine Civil Rights Act](#)

Appendix C: Confidential Resource Advisor

A. What the CRA Does

The Confidential Resource Advisor (CRA) provides confidential support and advocacy for individual who have experienced any form of harassment, discrimination, or sexual or interpersonal violence. The CRA can speak confidentially with community members to: answer questions about reporting incidents to the college or local law enforcement; discuss the different resolution process options under the Bates policy; and help individuals determine which choices may be best for them. The CRA also provides open, empathetic listening for community members who simply wish to work through an experience in community with someone else. In addition, the CRA often speaks friends and loved one of individuals who have experienced incidents of interpersonal violence to discuss how to they can be supportive.

B. How the CRA Can Help

The CRA can help by:

- Listening to and supporting Bates community members;
- Connecting individuals with other resources, both on campus and off campus;
- Helping coordinate supportive measures;
- Helping individuals file a report with the college or with local law enforcement;
- Explaining community members' rights and options under the Bates Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy;
- Providing information about self-care;
- Helping develop a safety plan;
- Attending meetings as an advisor or support person; and
- Assisting individuals with navigating the medical and legal systems.

C. Confidentiality

As a Confidential Employee, the CRA is not required to disclose information shared with them to the college. Information may be shared when: (1) the reporting person gives consent for its disclosure; (2) some disclosure is necessary to facilitate requested services; (3) there is a concern that the person will likely cause serious physical harm to self or others; or (4) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities.

Non-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA) and other state and federal laws.

Appendix D: Statement of The Parties' Rights

Under this policy and procedures, the Parties have the right to:

- Live, learn and work at Bates free from bias, harassment, and discrimination.
- Be treated with respect, care, and compassion.
- Have their privacy protected by all individuals involved in the investigation and resolution of their report.
- File a report and have it resolved promptly, fairly, and thoroughly.
- Choose whether to file a criminal complaint with local law enforcement and to receive assistance should they wish to do so.
- Receive supportive measures to help them continue to live, learn, and work at Bates.
- Be free from retaliation for making a report or participating in the Resolution Process.
- Receive timely notice of meetings and equal access to the information used in those meetings.
- Choose whether you wish to participate in any formal investigative process.
- Have an advisor of their choosing or support person present at all meetings.
- Receive written notification of the outcome of any resolution of a complaint.
- Appeal dismissal and outcome decisions on limited grounds.
- Receive amnesty for minor drug and alcohol violations that occurred at the time of the incident.
- Request a campus No Contact Order or seek a court-issued Order of Protection.
- Present evidence, suggest witnesses and questions for those witnesses, and review and respond to all relevant evidence prior to a decision being rendered.

These rights are extended to the Parties regardless of whether they participate in a Formal Resolution process.

Appendix E: Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. The college will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault and Incidents Resulting in Physical Injury

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.
- Take timestamped photographs of injuries.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.
- Create a log or journal of events.

Appendix F: Violence Risk Assessment

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A Violence Risk Assessment (VRA) is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other Bates Care Collaborative (BCC) team members. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted or predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

- 1) An appraisal of **risk factors** that escalate the potential for violence.
- 2) A determination of stabilizing influences, or **protective factors**, that reduce the risk of violence.
- 3) A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
- 4) The application of **intervention and management** approaches to reduce the risk of violence.

To assess a person's level of violence risk, the Title IX Coordinator will initiate the VRA process through the Bates Care Collaborative (BCC). The BCC will assign a trained person(s) to perform the assessment, according to the specific nature of the complaint. The assessor(s) will follow the process for conducting a VRA as outlined in the BCC manual and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include The NABITA Risk Rubric,² The Structured Interview for Violence Risk Assessment (SIVRA-35),³ Violence Risk Assessment of the Written Word (VRAWW),⁴ Workplace Assessment of Violence Risk (WAVR-21),⁵ Historical Clinical Risk Management (HCR-20),⁶ and MOSAIC.⁷

² <https://www.nabita.org/training/nabita-risk-rubric/>

³ <https://www.nabita.org/training/sivra-35/>

⁴ <https://www.nabita.org/training/vraww/>

⁵ www.wavr21.com

⁶ <http://hcr-20.com>

⁷ www.mosaicmethod.com

The VRA is conducted independently from the Resolution Process, informed by it, but free from outcome pressure. The person(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Bates Care Collaborative (BCC) as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- assessment of the need for emergency removal of a Respondent on the basis of an immediate threat to the physical health and/or safety of another person or the broader community;
- whether the Title IX Coordinator should pursue a formal complaint absent a willing/able Complainant;
- whether the scope of the investigation should include a single incident and/or a pattern of misconduct, and/or a climate of hostility or harassment;
- to help identify potential predatory conduct;
- to help assess and identify grooming behaviors;
- assessment of whether it is reasonable to attempt to resolve a complaint through Informal Resolution, and if so, what approach may be most successful;
- whether to permit a voluntary withdrawal by the Respondent;
- whether to impose transcript notation on the Respondent's official transcript, or otherwise alert another institution of the allegations against the Respondent;
- assessment of appropriate sanctions and remedies (to be applied post-hearing); and/or
- whether a Clery Act Timely Warning or other protective measure, such as a No Contact Order or Trespass order is needed.

Where a VRA is required by the Title IX Coordinator, refusal to cooperate in a VRA by a Respondent may result in disciplinary action for failure to comply with a college official or disciplinary process within the appropriate student or employee conduct process.

Appendix G: Training for Members of the Civil Rights Resolution Team

The Civil Rights Resolution Team members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of the Bates Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy;
- The Resolution Process under the college's policy;
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability;
- Implicit bias and confirmation bias;
- Treating Parties equitably;
- Disparate treatment;
- Disparate impact;
- Reporting, confidentiality, and privacy requirements;
- Applicable laws, regulations, and federal regulatory guidance;
- How to implement appropriate and situation-specific remedies;
- How to investigate in a thorough, reliable, timely, and impartial manner;
- Trauma-informed practices pertaining to investigations and resolution processes;
- How to uphold fairness, equity, and due process;
- How to weigh evidence;
- How to conduct questioning;
- How to assess credibility;
- Impartiality and objectivity;
- How to render findings and generate clear, concise, evidence-based rationales;
- The definitions of all prohibited conduct;
- How to conduct an investigation and resolution process, including administrative resolutions, appeals, and Informal and Formal Resolution processes;
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics;
- Any technology to be used at a live hearing;
- Issues of relevance of questions and evidence;
- Issues of relevance and creating an Investigation Report that fairly summarizes relevant and not impermissible evidence;
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations; and
- Recordkeeping.

Additional Training Elements Specific to Title IX

All investigators, Decision-makers, and other persons who are responsible for implementing college's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the resolution procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation;
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations;
- Training for Informal Resolution facilitators on the rules and practices associated with the college's Informal Resolution process;
- The role of the Title IX Coordinator;
- Supportive Measures;
- Clery Act/VAWA requirements applicable to Title IX;
- Bates's obligations under Title IX;
- How to apply definitions used by the college with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy;
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions; and
- Any other training deemed necessary to comply with Title IX.

