



Sexual Misconduct Policy

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1. Introduction

Southern New Hampshire University ("the University"), in compliance with the spirit of various federal and state laws (e.g., Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, title VII of the Civil Rights Act of 1964, the Violence Against Women Reauthorization Act of 2013 ("VAWA"), and other similar state and federal statutes and regulations), adopts the policy and fosters an environment where no individual may threaten the health, safety and welfare of a member of the University community; or any person on University property; or at a University sponsored or supervised activity, through the commission of a sexual assault, engaging in sexual harassment, discrimination, battery, and/or misconduct, including acquaintance rape.

The University does not condone and will not tolerate sexual misconduct, sexual harassment or sexual violence of any kind. The University prohibits rape, domestic violence, dating violence, sexual assault, stalking, and cyber-stalking, as well as discrimination or harassment based on sex.

The University encourages the reporting of sexual misconduct that is prompt and accurate. This allows the University community to quickly respond to allegations and offer immediate support to the victim. The University is committed to protecting the confidentiality of victims as permitted under law and will work closely with students who wish to obtain confidential assistance regarding an incident of sexual misconduct. Certain professionals at the University are permitted by law to offer confidentiality. Those who do not maintain the privilege to offer confidentiality are expected to keep reports private to the extent permitted under the law and University policy. This means that they may have to report to University officials, but will not broadcast the information beyond what is required by law and policy. All allegations will be thoroughly reviewed and appropriately investigated in a prompt manner, and both the complainant and the accused will be afforded equitable rights during the process.

The University does not discriminate on the basis of sex in its educational programs and in other activities operated by the University and is required by Title IX, and specifically 34 C.F.R. Part 106.9, not to discriminate in such a manner. This extends to Associates of and applicants for admission to the University. Inquiries concerning the application of Title IX may be directed to the University's Title IX Coordinator.

In an effort to promote a safe and secure campus environment and prevent acts of sexual misconduct from occurring, the University engages in ongoing prevention and awareness education programs. All incoming students and employees are required to participate in these programs, and all members of the University/university community are encouraged to participate throughout the year in ongoing campaigns and trainings focused on the prevention of sexual misconduct on campus.

2. Definitions

Acquaintance Rape	Forced, manipulated or coerced sexual contact committed by someone who knows the victim.
Associate	A faculty member, staff member, or University personnel
Consent	Consent is the equal approval, given freely, willingly, and knowingly of each participant to desired sexual involvement. Consent is an affirmative, conscious decision –indicated clearly

by words or actions-to engage in mutually accepted sexual contact. A person forced to engage in sexual contact by force, threat of force, or coercion has not consented to contact. Coercion includes unreasonably pressuring another to engage in sexual activity. Lack of mutual consent is the crucial factor in any sexual misconduct. Consent to some form of sexual activity does not necessarily constitute consent to another form of sexual activity. Silence without demonstrating permission does not constitute consent.

Consent is not valid when a person is incapacitated, or when an intellectual or other disability prevents a person from having the capacity to give consent. A person is incapacitated if they lack the capacity to consent to sexual activity because the person is asleep, unconscious, mentally and/or physically helpless, or otherwise unaware that sexual activity is occurring. Incapacitation is not necessarily the same as legal intoxication. Where alcohol or other drugs are involved, evaluating Incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's: decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person. Under New Hampshire State Law, a person under sixteen years of age cannot consent to sexual contact.

Dating Violence

"Dating Violence" includes violence 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 shall be determined based on a consideration of the following factors:
 - a. the length of the relationship.
 - b. the type of relationship.
 - c. the frequency of interaction between the persons involved in the relationship.

Discrimination

Treating an individual differently in the terms or conditions of his or her employment or education on the basis of his or her race, color, religion, sex, ethnicity, national origin or ancestry, age, physical or mental disability, sexual orientation, gender identity, gender expression, genetic information, veteran or military status, and all other categories protected by applicable state and federal laws.

Domestic Violence

The State of New Hampshire defines domestic violence as the commission or attempted commission of one of the following

offenses against a victim who is a family or household member or a current or former sexual or intimate partner of the offender:

- assault or reckless conduct
- criminal threatening
- sexual assault
- interference with freedom
- destruction of property
- unauthorized entry,
- harassment, and
- cruelty to animals.

The offense or attempted offense must represent a credible threat to the safety of the victim. This may require consideration of all acts by the perpetrator that reflect an ongoing pattern of behavior which reasonably causes or has caused the victim to fear for his or her safety or well-being:
(RSA 173-B:1; 173-B:10)

Gender-Based Harassment

“Gender-based harassment” is unwelcome conduct of a nonsexual nature based on a student’s actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.

A “hostile environment” exists when sex-based harassment is sufficiently serious to deny or limit the student’s ability to participate in or benefit from the University’s programs or activities.

Hostile Environment

A hostile environment can be created by anyone involved in a University’s program or activity (e.g., administrators, faculty members, students, and campus visitors).

In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the student who was harassed. But the University will also need to find that a reasonable person in the student’s position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment.

To make the ultimate determination of whether a hostile environment exists for a student or students, the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more student’s education.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations This policy does not impair the exercise of rights protected under the First Amendment. Nor does it create First Amendment rights that do not currently exist within a private post-secondary institution. The University's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this policy in a manner that respects the First Amendment rights of students, faculty, and others.

Sex-Based Harassment

"Sex-based harassment" includes sexual harassment and gender-based harassment.

Sexual Assault

New Hampshire law defines three levels of Sexual Assault: Sexual Assault, Felonious Sexual Assault, and Aggravated Felonious Sexual Assault.

Sexual Assault (RSA 632-A:4) means unwanted or unwelcome touching of a sexual nature, including: fondling; penetration of the mouth, anus, or vagina, however slight, with a body part or object; or other sexual activity that occurs without valid Consent.

Felonious Sexual Assault (RSA 632-A:3) includes the offense often referred to as the "statutory rape law," which involves sexual penetration of a person between the ages of 13 and 16 when the age difference between the actor and the other person is 4 years or more. It also applies when a person is in a position of authority over another and coerces that other person to engage in sexual contact with the actor or with him/herself in the actor's presence.

Aggravated Felonious Sexual Assault (RSA 632-A:2) is defined as a Sexual Assault under certain circumstances, including but not limited to: use or threat of physical violence or superior physical strength on the victim, coercion by threatened retaliation against the victim or another person, submission under false imprisonment, kidnapping or extortion, or sexual assault after the administration without prior consent of an intoxicating substance which incapacitates the victim.

Sexual Battery

Sexual contact that occurs without consent.

Sexual Exploitation

"Sexual exploitation" occurs when a person takes sexual advantage of another person for the benefit of anyone other than

that person without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and,
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.

Sexual Harassment

As defined in the 1980 Equal Employment Opportunity Commission's Guidelines On Sexual Harassment, sexual harassment encompasses "unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature" such as intentional patting, pinching, touching or other sexually suggestive behavior that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the education program. Sexual harassment occurs when:

1. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience, creating an intimidating or hostile employment, educational or living environment for an individual; or
2. Such conduct has the purpose or effect of abusing, threatening, or intimidating an Associate or student through insulting or degrading sexual remarks or conduct; or
3. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or of a student's status in a course, program or activity; or
4. Submission to or rejection of such conduct is the basis for academic or employment decisions affecting an individual; or
5. Such conduct is directed against an individual persists despite requests for its cessation and/or when a claim of sexual harassment has resulted in retaliation against Associates/students for complaining about such behavior.

Sexual Misconduct

Any sex discrimination that can include discrimination, sex-based harassment, sexual battery, gender-based harassment, sexual

harassment, sexual violence or assault, rape, sexual coercion or exploitation, sexual threats or intimidation, domestic violence, dating violence, stalking, and cyber-stalking.

Stalking

Under New Hampshire state law (RSA 633.3), Stalking occurs when a person:

1. engages in a course of conduct or repeatedly commits acts toward another person, under circumstances that would place the person in reasonable fear for safety, or of harm or bodily injury to self or others; or
2. engages in a course of conduct that the person knows will place that individual in fear for his or her personal safety or the safety of that individual's immediate family; or
3. after being served with a protective order prohibiting contact with an individual, purposely, knowingly, or recklessly engages in a single act of conduct that is included in the "Course of Conduct" definition below.

A course of conduct refers to a pattern of behavior of two or more acts over a period of time that include any of the following acts:

1. Threatening the safety of the targeted person or an immediate family member.
2. Following, approaching, or confronting that person, or a member of that person's immediate family.
3. Appearing in close proximity to, or entering the person's residence, place of employment, school, or other place where the person can be found, or the residence, place of employment or school of a member of that person's immediate family.
4. Causing damage to the person's residence or property or that of a member of the person's immediate family.
5. Placing an object on the person's property, either directly or through a third person, or that of an immediate family member.
6. Causing injury to that person's pet, or to a pet belonging to a member of that person's immediate family.
7. Any unwelcome act of communication as defined in N.H. RSA 644:4, II, including through email, text, phone, mail, etc.

Unwelcome Conduct

Conduct is considered "unwelcome" if the individual did not request or invite it and considered the conduct to be undesirable or offensive.

Unwelcome conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex.

Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that an individual may have welcomed some conduct does not necessarily mean that they welcomed other conduct. Also, the fact that a person requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

3. Policy

Scope

This policy applies to all members of the University Community including all students, faculty, staff, and other university officials, whether full or part-time and guest lecturers, as well as to conduct by third parties (i.e., individuals who are neither students nor employees, including but not limited to guests and consultants) directed toward, University students, faculty, or staff members. The policy applies to these parties regardless of sexual orientation or gender identity or expression. The policy governs the conduct of all faculty, staff, administration, Associates, students, volunteers and visitors at off-campus University sponsored events, including, but not limited to academic and educational programming, internships, study abroad programs, athletic events, and all other University programming, as well as to the conduct of all faculty, staff, administration, Associates, students, volunteers and visitors occurring off-campus but having an effect on the University's educational environment or a victim's educational experience.

Purpose

To define, prevent, and respond to Sexual Misconduct.

Prohibited Conduct

The University strictly prohibits all forms of Sexual Misconduct. As defined above, this includes discrimination, sex-based harassment, sexual battery, gender-based harassment, sexual harassment, sexual violence or assault, rape, sexual coercion or exploitation, sexual threats or intimidation, domestic violence, dating violence, stalking, and cyber-stalking. Sexual Misconduct is prohibited whether occurring on or off campus and whether directed against a member of the University community or outside the University. Allegations of sexual misconduct are investigated and processed in accordance with the discipline process outlined herein and in the Student Handbook, Employee Handbook, and/or SNHUPEA Agreement.

Reporting Policy

The University encourages community members to report incidents of sexual harassment, sexual assault or any other sexual misconduct immediately to the University and the police. A report may be made by the victim of a violation of this Policy or by any other person having knowledge of the violation. Confidentiality concerns are addressed below.

Employee Reporting

The University takes the position that all employees not having a legal duty of confidentiality (e.g. a licensed counselor, doctor, or nurse) are “Responsible Employees”. A Responsible Employee is a University employee who has the duty to report incidents of sexual misconduct. With respect to students who are also employed by the University, only Resident Assistants (RAs) and those student employees with similar significant responsibility for student welfare are Responsible Employees under this policy.

A Responsible Employee who witnesses or has knowledge of sexual misconduct against a student must immediately contact the Title IX Coordinator, Human Resources, or anyone in a managerial position e.g., Chair, Division Director, Deans, Supervisor, Manager, Department Head, Director, or Vice President for advice and assistance and to ensure the University responds appropriately. A failure by a Responsible Employee to report a violation of this policy perpetrated against a student may warrant disciplinary action, and may in some circumstances also result in civil or criminal liability.

Any employee who has themselves been a victim of sexual misconduct should contact the Title IX Coordinator, Human Resources, or anyone in a managerial position e.g., Chair, Division Director, Deans, Supervisor, Manager, Department Head, Director, or Vice President.

Bystander Policy

The University encourages all community members to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Taking action may include direct intervention where it is safe to do so, creating a distraction, calling law enforcement, or seeking assistance from a person in authority.

Connection Between the Sexual Misconduct Policy and the Drug and Alcohol Policy

Victims, bystanders, or other parties may have concerns about reporting sexual misconduct because of the University’s drug or alcohol policy. The University’s primary concern is student safety, and any drug or alcohol rules violations will be addressed separately from the sexual misconduct allegation. In addition, the University personnel involved in investigating violations of this Policy have discretion to grant amnesty from violations of the University’s drug and alcohol policy on a case by case basis. The use of alcohol or drugs never makes a victim at fault for sexual violence.

4. Role of the Title IX Coordinator

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education’s implementing regulations at 34 C.F.R. Part 106, the University’s Title IX Coordinator has primary responsibility for coordinating the University’s efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all the

operations of this University, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX.

Sexual Misconduct against students, including sexual harassment, sexual assault, rape, and sexual exploitation, can be a form of sex discrimination under Title IX. The Title IX coordinator oversees the University's response to reports and complaints that involve possible sex discrimination affecting students to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the University can address issues that affect the wider school community.

A student or employee should contact the Title IX Coordinator or Deputy Title IX Coordinator(s) in order to:

- seek information or training about victim's rights and courses of action available to resolve reports or complaints that involve potential sex discrimination, including sexual misconduct,
- file a complaint or make a report of sex discrimination, including sexual misconduct,
- notify the University of an incident or policy or procedure that may raise potential Title IX concerns,
- get information about available resources (including confidential resources) and support services relating to sex discrimination, including sexual misconduct, and
- ask questions about the University's policies and procedures related to sex discrimination, including Sexual Misconduct.

Functions and Responsibilities of the Title IX Coordinator

The Title IX Coordinator's functions and responsibilities include the following:

(1) Training for Students, Faculty, and Staff

The Title IX Coordinator provides or facilitates ongoing training, consultation, and technical assistance on Title IX for all students, faculty and staff, including:

- regular training for faculty and staff outlining their rights and obligations under Title IX, including the appropriate response to reports of sexual misconduct, the obligation to report sexual misconduct to appropriate University officials, and the extent to which counselors and advocates may keep a report confidential, and
- regular training for students outlining their rights under Title IX; with regard to sexual misconduct, this training will include what constitutes sexual misconduct and when it creates a hostile environment, the definition of consent, reporting options (including reports to Responsible Employees, campus and local law enforcement, and confidential reporting to counselors or advocates), the procedures used to process complaints, applicable disciplinary code provisions relating to sexual misconduct and the consequences of violating those provisions, the role of alcohol and drugs in sexual misconduct, the effects of trauma, strategies and skills for bystander intervention, the offices or individuals with whom students can speak confidentially, the offices or individuals who can provide support services, the employees who must report incidents to the Title IX coordinator, and Title IX's protections against retaliation.

(2) Investigations

The University is responsible for conducting adequate, reliable, and impartial investigations of reports and complaints of Sexual Misconduct. The Title IX Coordinator oversees many aspects of this response, including:

- determining whether the report or complaint alleges conduct that may, upon investigation, constitute prohibited sexual misconduct,
- reviewing the intake information to assess whether there is sufficient information upon which an investigation may proceed,
- appointing an investigative team upon such determination,
- making certain that individual reports and complaints are handled properly and in a prompt and timely manner,
- informing all parties regarding the disciplinary process,
- confirming that all parties have been notified of disciplinary decisions and of the right to, and procedures for, appeal, if applicable,
- maintaining information and documentation related to the investigation in a secure manner, and
- monitoring compliance with timeframes specified in the discipline procedures.

The Title IX Coordinator evaluates requests for confidentiality, as outlined below, by those who report or complain about sexual misconduct in the context of the University's responsibility to provide a safe and non-discriminatory environment for all students.

5. Reporting Sexual Assault or Other Violations of the Sexual Misconduct Policy

Timing of Complaints

If the respondent is a current Southern New Hampshire University student (undergraduate or graduate, full-time or part-time), there is no time limit for filing a complaint to initiate these Procedures. However, students are strongly encouraged to report sexual misconduct in a timely manner to maximize the University's ability to gather evidence, and conduct a thorough, impartial, and reliable investigation. If the respondent is a second semester senior (or in the final semester of a graduate program), the University may withhold that student's Southern New Hampshire University degree pending conclusion of the complaint resolution procedures.

After Graduation Complaints of Pre-Graduation Incident

This Policy does not include adjudicating incidents that occurred before the accused was matriculated or after the student has graduated. The college can hear complaints against students who have graduated if the alleged incident took place before the accused student graduated and the complainant files a written complaint within the twelve months of the accused's date of graduation. If found to be responsible for a violation of sexual misconduct policy, the former student charged could face revocation of his/her diploma.

Contact Information for Reporting:

All reports of sexual misconduct under this policy can be made to the Title IX Coordinator, or any other member of the Title IX compliance team. The University's Title IX compliance

team includes Rebecca Lawrence, Title IX Coordinator; Danielle Stanton, Michael Graskemper, and Jim Winn, Deputy Title IX Coordinators:

- Rebecca Lawrence is the University's Title IX Coordinator and can be reached in person at The Green Center on the University's main campus at 2500 North River Road, Manchester NH, by telephone at 603-644-3188, or by email at r.lawrence2@snhu.edu. Ms. Lawrence, as Title IX Coordinator, is responsible for overseeing the University's response to all Title IX complaints.
- Danielle Stanton is the VP for Human Resources and can be reached in person at 1230 Elm Street, 5th Floor, Manchester NH, by telephone at 603-629-7820, and by email at d.stanton3@snhu.edu.
- Michael Graskemper is the Director of Dispute Resolution for the College of Continuing and Online Education (COCE) and is also the Deputy Title IX Coordinator for COCE. He can be reached at 603-314-7647, or at M.Graskemper@snhu.edu.
- Jim Winn is the Director of Public Safety, in addition to being a Deputy Title IX Coordinator for University College, and can be reached in person at Morrissey House, 2503 North River Road, Manchester NH 03106, by telephone at 603-645-9700, or by email at safety@snhu.edu.

Students:

Any student who believes that he or she has been subject to sexual misconduct and wishes to report it should immediately contact the Title IX Coordinator or any member of the Title IX Compliance team using the contact information above. Violations may also be reported to Public Safety at 603-645-9785, the office of Residential Life at 603-645-9758, coaches, Athletic Director, or any member of the Division of Student Affairs. and Academic Development staff, or any other Responsible Employee. Confidentiality and the opportunity for confidential reporting are addressed below.

Employees:

Any manager or Responsible Employee who wishes to report a complaint of sexual misconduct should immediately contact a member of the Title IX Compliance Team or the office of Human Resources at 603-644-3125.

Reporting to the Police

Students are also encouraged to report sexual assault and relationship violence not only to the Public Safety or a Title IX Coordinator, but also to law enforcement authorities. However, students have a right to choose not to file a report with law enforcement. The decision to file a criminal complaint is a deeply personal choice. Students often make this decision based on the circumstances surrounding the incident and the circumstances in their life at the time of the incident. Some students discover that participating in a proceeding to hold the accused accountable helps them to regain some measure of control lost by virtue of the assault, and to protect themselves and others from future harm. Students must also

understand that SNHU Public Safety is not a police force, and a report to Public Safety is not equivalent to filing a police report.

Upon reporting an incident, students will be given the opportunity and assistance to speak with appropriate local law enforcement personnel to make the report. Public Safety and/or the Title IX coordinator will assist students wishing to file a criminal complaint. Students do not need to file a criminal complaint in order to initiate disciplinary proceedings with the University, and the University may find an accused student responsible for violating the student disciplinary policy regardless of the status or outcome of the criminal proceedings, if any. Absent extenuating circumstances, the University will not unduly delay its Response Procedure to await the completion of any criminal proceeding or investigation, unless required to do so by valid court order.

Students may also wish to pursue a criminal or civil restraining order from a local court, and the University can offer a victim resources with information about how to obtain such an order.

Students in an ongoing emergency should dial 911. Contact information for local police in the Manchester area for non-emergency reporting is as follows:

Hooksett Police Department 15 Legends Dr. Hooksett, NH 03106 (603) 624-1560	Manchester Police Department 405 Valley Street Manchester, NH 03106 (603) 668-8711
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Health Care Resources in the Manchester Area

Every victim has the option to seek treatment for injuries sustained during an incident of sexual misconduct, preventative treatment for sexually transmitted diseases, and other health services. A medical exam is also an important way for a health provider to properly collect and preserve evidence, which could later be used in a civil or criminal case. In cases where necessary, rape kits are also available at local emergency rooms.

In the case of an ongoing emergency, dial 911.

Elliot Hospital 4 Elliot Way, Manchester, NH 03013 (603) 669-5300	Catholic Medical Center (CMC) 100 McGregor St, Manchester, NH 03102 (603) 668-3545
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Sexual Assault and Domestic Violence resources in New Hampshire and the Manchester area include:

New Hampshire Sexual Assault Hotline 1-800-277-5570	New Hampshire Domestic Violence Hotline 1-866-644-3574
YWCA Crisis Service 72 Concord Street, Manchester	

This policy is subject to periodic review and change without notice. Please visit <http://family.snhu.edu/Resources/StudentHandbooks/Pages/SexualMisconductPolicy.aspx> for the latest version.

Crisis line: 603-668-2299

On-Campus

Medical treatment and counseling for on-campus students are also available at the Campus Wellness Center, located in the Robert A. Freese Student Center. Students can access health services during normal business hours by walk-in and may reach the Wellness Center Counselors at 603-645-9679. Emergency counseling services are also available twenty-four hours a day. During regular business hours, a student can speak with a counselor by contacting the Wellness Center staff. During nights, weekends and holidays, a student seeking emergency counseling can access services by contacting Public Safety or Residence Life who will notify a counselor on call.

Resources for Online Students

In addition, a list of counseling, health, mental health, victim advocacy, legal assistance, and other services available including crisis help lines can also be found on the COCE Wellness Center's webpage at <https://my.snhu.edu/Offices/COCE/Wellness>. Students located outside of New Hampshire can click the "Locate Resources in Your Area" link to be directed to crisis resources based on their location.

6. Confidentiality

Cases involving alleged discrimination, harassment or violence based on sex demand special attention to issues of confidentiality. Dissemination of information relating to these cases is limited so as to ensure, as fully as possible, the privacy of the individuals involved. Additionally if the complainant wishes to remain anonymous, or not pursue a formal complaint, the complainant should be advised that the University's response may be limited. Furthermore, because of the University's obligation to maintain a safe environment for all members of the University community, the University may have an obligation to pursue an investigation without the complainant's cooperation. In such cases, the University will take preventative measures to preserve confidentiality to the extent practicable and permissible by applicable law.

The University encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the University can respond appropriately.

Different employees on campus have different abilities to maintain a victim's confidentiality.

- Some, including professional counselors, doctors, or nurses, are required to maintain near complete confidentiality*.
- All other employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX coordinator. A report to these employees (called "Responsible Employees") constitutes a report to the University—and generally obligates the University to thoroughly review and, if deemed necessary, appropriately investigate the incident and take appropriate steps to address the situation.

* See "Exceptions to Confidentiality" below for an explanation of when this duty of confidentiality may not apply.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of sexual violence. The University encourages victims to talk to someone identified in one or more of these groups.

Reporting Options:

A. Privileged and Confidential Communications

- **Professional and Pastoral Counselors**

SNHU can provide members of its campus community with professional, licensed counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor). SNHU Wellness counselors can be reached at 603-645-9679. Pastoral counselors may also be available to speak to students through Campus Ministry, which can be reached at 603-645-9608 or by referral at the Wellness Center.

These counselors are not required to report any identifying information about an incident to the Title IX coordinator without a victim's permission. A counselor may collect and eventually report some general, non-identifying data that will not lead to an investigation, such as the date of the report, date of the crime, and general location as part of the University's crime data reporting responsibility. A member of the community wishing to speak with a professional, licensed counselor can request to do so through the on-campus Wellness Center.

Emergency services are available 24 hours a day. Students can access services during normal business hours by calling 603-645-9679. During nights, weekends and holidays, a student can access services by contacting Public Safety at 603-645-9700 who will notify a counselor on call.

Students in the College of Online and Continuing Education (COCE) can also log on to <https://my.snhu.edu/Offices/COCE/Wellness> and find a list of available professional counseling resources in their state.

- **Registered Nurses**

In addition to counseling services, the campus Wellness Center is staffed by two full-time Advanced Practice Registered Nurses (APRN) and one licensed registered nurse. New Hampshire law (RSA 326-B) provides that confidential communications made to a nurse by a patient are entitled to the same privilege as those between a physician and a patient. As a result, a nurse in the Wellness Center is not required to reveal any details of an incident to the Title IX coordinator. As with a professional counselor, a nurse may collect and eventually report some general, non-identifying data that will not lead to an investigation, such as the date of the report, date of the crime, and general location as part of the University's crime data reporting responsibility.

Both professional counselors and licensed nurses may be required to break confidentiality in certain circumstances, as more fully described in "Exceptions to Confidentiality," below.

A victim who speaks to a professional counselor or nurse must understand that, if the victim wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. Again, as a practical matter, the full availability of some of these services may be limited in certain circumstances by a victim's desire for confidentiality and level of cooperation. A victim who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors will provide the victim with assistance if the victim wishes to do so.

Exceptions to Confidentiality:

While these professional counselors and nurses may maintain a victim's confidentiality vis-à-vis the University, they may have mandatory reporting or other obligations under state law. For example, New Hampshire has a mandated reporter law for when a person "has reasons to suspect that a child has been abused or neglected" (R.S.A. §169-C:29), which requires timely disclosure to the N.H. Department of Health and Human Services if the victim is under eighteen years of age. A similar reporting law applies to incapacitated and elderly adults. (RSA 161-F:46). New Hampshire also has an anti-hazing statute that requires that any person who is present or otherwise has direct knowledge of any student hazing must report the hazing to law enforcement or educational institution authorities. (RSA 631:7).

Likewise, behavior that poses a serious threat of harm to self or others, or receipt of a court order or a subpoena under certain circumstances can trigger a duty to timely disclose confidential information, irrespective of the categories above.

Also, if the University determines that the alleged perpetrator(s) poses a serious and immediate threat to the University community, Campus Safety may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

B. Reporting to "Responsible Employees."

A "Responsible Employee" is a University employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.

When a victim tells a Responsible Employee about an incident of sexual violence, the victim has the right to expect the University to take immediate and appropriate steps to review thoroughly and appropriately investigate what happened and to resolve the matter promptly and equitably.

A Responsible Employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that the University will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University's response to the report. A Responsible Employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

All University employees other than licensed counselors or medical professionals are deemed to be Responsible Employees. This includes, but is not limited to: University administrators, Campus Safety Officers, student affairs personnel, residence life employees, and all faculty, adjuncts, and instructors. The only Student Employees who are Responsible Employees are Resident Assistants (RAs) and those student employees with similar significant responsibility for student welfare.

To the extent possible and practicable, a Responsible Employee should try to ensure that the victim understands the employee's reporting obligations before a victim reveals any information to a responsible employee, – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the Responsible Employee what happened but also maintain confidentiality, the employee should tell the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Coordinator of the victim's request for confidentiality.

Responsible Employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the University to fully investigate an incident. By the same token, Responsible Employees will not pressure a victim to make a full report if the victim is not ready to do so.

Requesting Confidentiality: How the University Will Weigh Request and Respond

If a victim discloses an incident to a Responsible Employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the University honors the request for confidentiality, a victim must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

There are times when the University may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all members of the university community.

The University has designated the Title IX Coordinator to evaluate requests for confidentiality once a Responsible Employee is on notice of alleged sexual misconduct. The Title IX Coordinator may consult other appropriate University stakeholders in his or her assessment of such a request and consideration of the factors identified below.

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the University will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
 - whether there have been other sexual violence complaints about the same alleged perpetrator;
 - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
 - whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University will likely respect the victim's request for confidentiality.

If the University determines that it cannot maintain a victim's confidentiality, the University will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response.

The University will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or University employees, will not be tolerated. The University will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these);
- provide other security and support, which in some circumstances could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The University may not require a victim to participate in any investigation or disciplinary proceeding.

If the University determines that it can respect a victim's request for confidentiality, the University will also take immediate action as necessary to protect and assist the victim.

7. The University's Response Procedure

Upon the University receiving notice of an incident of Sexual Misconduct, the University will provide the complainant with additional resources and a written notification outlining a number of choices including but not limited to:

- speaking with a counselor
- seeking medical assistance
- reporting the incident to local police
- filing formal conduct charges
- requesting reasonable accommodations

Timeframe for Response Process

Unless otherwise stated, all timeframes under this policy are listed in calendar days, not business days.

The University will conduct a timely review of all complaints of sexual misconduct. Absent extenuating circumstances, review and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint, or a maximum of ninety (90) calendar days in the event of a subsequent appeal.

An appeal of the results, whether by the complainant or the accused, must be submitted within five (5) business days of receipt of the written result. Absent extenuating circumstances, decisions on appeals are typically issued within thirty (30) days of the date of the original decision.

Extensions

All deadlines and time requirements in the Code may be extended for good cause as determined by the Title IX officer or his or her designee. Both the respondent and the complainant will be notified in writing of the delay, the reason for delay, and provided the date of the new deadline or event. Extensions requested by one party will not be longer than 5 business/school days.

Extenuating Circumstances

Notwithstanding the above, Extenuating Circumstances may require that this timeline be extended. For example, a complainant who seeks confidentiality and chooses not to name an accused at the time of intake may cause an investigation to be paused. If that complainant later identifies an accused, the Response Process may be re-initiated, and the time from the receipt of the initial incident report to sanctions, if imposed, may extend beyond sixty (60) days.

Hearing Procedures

Please refer to the Southern New Hampshire University Student Handbook, Employee Handbook and/or SNHUPEA Agreement for a further description of investigation, grievance, and adjudication procedures. With respect to incidents of alleged Sexual Misconduct, any conflict between the procedures described in this Policy and either Handbook, the terms of this Policy shall control.

Intake

Upon receiving a complaint, the University will conduct an Intake. At the Intake stage, the University will take steps to make a safety plan, prevent or address any retaliatory conduct, address any immediate physical or emotional safety concerns for anyone involved, offer support to the complainant with any law enforcement reporting decision, address any threat to the safety of the University community, and enter any non-identifying information into the University's crime log.

Prior to initiating its investigation, the University will inform the complainant of their intention to investigate, and request his or her consent to do so. The University will assess any requests for confidentiality or requests not to investigate further at that time, consistent with the Confidentiality policy outlined above. If the University cannot honor such a request, the complainant will be informed at that time.

Informal Resolution Options

The University may present an opportunity for informal remedies or resolution at any time during the response process. A complainant will never be expected to work out a resolution directly with the accused. Likewise, in incidents of sexual assault or sexual violence, mediation is never an option. Informal resolutions are voluntary.

Interim Measures

If necessary, the University will take immediate steps to protect complainants pending the final outcome of an investigation with interim measures. If it is determined by a staff member that contact between specific persons may pose a threat to the safety or emotional well-being of an individual, a No-Contact order can be issued by the University. Other interim measures available to the University include but are not limited to: temporary administrative suspension, restrictions on participation in a team or organization, or student accommodations as described below.

Student Accommodations

A student who has been a victim of sexual misconduct may request an academic accommodation or change in residence after a report of sexual misconduct. Any individual who makes a request will receive an appropriate and reasonable accommodation. Possible requests include the ability to change academic schedules or work schedules, withdraw from or retake a class without penalty, access academic support such as tutoring services, and change residence hall assignments. Pursuant to Title IX, in most cases of sexual violence or sex discrimination, the University will endeavor, to the extent practicable, to change the schedule or accommodations of the accused student prior to changing the schedule or accommodations of the complainant.

After any necessary Interim Measures or Accommodations have been made, the scope of any further investigation or disciplinary action will depend upon factors including but not limited to: whether the complainant wishes to pursue a complaint to the University Conduct Board and whether the University has an obligation to pursue a University Conduct Board hearing regardless of the wishes of the complainant to preserve the safety of the University community.

Investigation and University Conduct Board Discipline Process

After the Intake, the Title IX Coordinator or an assigned Deputy Coordinator will determine if the allegations contained in the complaint would, if proven, constitute a violation of this Policy. If a determination is made that the allegations would constitute a violation, an Investigation will be initiated by the Title IX coordinator or his or her deputy or designee.

If the Title IX coordinator determines that the allegations, if true, would not constitute a violation of the Policy, the complainant will be provided with other support options as appropriate, but the Title IX coordinator will not pursue any further investigation or discipline under this Policy at that time.

If, however, the complainant presents new evidence, reveals new information, or presents a violation of another SNHU Policy, this decision can be reevaluated by the Title IX Coordinator in his or her discretion.

Investigation Process

If the Title IX Coordinator determines that an investigation is appropriate under the standard described above, the Title IX Coordinator or an assigned deputy Title IX coordinator will conduct a prompt, fair, and impartial investigation that involves interviewing parties and witnesses as appropriate, and reviewing evidence including available police reports. All investigations will 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. Any member of the university community who knowingly makes a false statement to the investigator during the course of the investigation may be subject to disciplinary action.

The Investigator will complete an investigation report within a reasonable time period after initiating the investigation. The Title IX Coordinator will then, based upon the findings in that report, determine whether the conduct in question should be referred to the University Conduct Board for a hearing. If so, written charges will be prepared by the Title IX Coordinator or his or her designee, provided to the complaining party and the accused simultaneously by email, and filed with the University Conduct Board. An investigative report completed as part of this process is a fact-finding report that will not include a recommendation of sanctions to the University Conduct Board, which will determine what sanctions, if any, are to be imposed. The report shall be mandatory evidence for the University Conduct Board hearing, and will be presented to the Board by the Title IX Coordinator or the Investigator.

If the Title IX Coordinator determines that the information presented does not merit a referral for a University Conduct Board hearing, he or she will inform both the complainant and the accused simultaneously by email to their SNHU email accounts of the decision. That email will include Notice that the investigation may be re-opened at the discretion of the Title IX Coordinator if new evidence is presented, new information comes to light, or a violation of another SNHU Policy or another section of this Policy are discovered.

Option to File Independent Charges:

Under extenuating or unusual circumstances, at the sole discretion of the Dean of Students, the complainant may be permitted, despite a decision by the Title IX Coordinator not to refer the matter to the University Conduct Board, to file independent charges with the University

Conduct Board on his or her own behalf. In such cases, the Investigator's report shall be considered as evidence by the Conduct Board, and the Investigator shall be called by the Board as a necessary witness. A complainant wishing to file independent charges must seek permission of the Dean of Students, no later than 180 days of the alleged incident, unless extended for good cause by the Dean of Students in his or her sole discretion.

University Conduct Board Hearing for Students

If the matter is referred to the University Conduct Board, or if a complainant files independent charges with the Student Conduct Board, a hearing will be conducted consistent with the process outlined in the Student Handbook and herein. All hearings conducted involving allegations of Sexual Misconduct will be conducted by officials with annual training related to domestic violence, sexual assault, and stalking, and on processes that protect the safety of victims and promote accountability. In the event of any discrepancy between the procedures described in the Student Handbook and this Policy, this Policy shall control.

Applicable Procedures for Employees

The adjudication of complaints lodged against Southern New Hampshire University employees will be handled consistent with the Southern New Hampshire University Professional Employees Association Agreement and the Employee Handbook.

Parties' Rights to Advisors

The accused and the complainant may be assisted during disciplinary hearings, any mediation, and related meetings, by an advisor of their choice, including an attorney. The respondent and complainant may propose witnesses and may produce other evidence for consideration by the University Conduct Board. The respondent and complainant are responsible for presenting evidence on their own behalf. Either party may request a brief recess to consult with their advisor which will be granted at the discretion of the hearing officer or his or her designee. Advisors may speak privately to their advisee, during the proceeding, but may not present evidence, question witnesses, raise objections, or address the student conduct body.

Student Sanctions

The University considers Sexual Misconduct violations as extremely serious and subject to sanctions including expulsion, suspension, disciplinary probation, recommended counseling, and/or other educational sanctions.

Evidentiary Standard in Sexual Misconduct Complaints:

The burden of proof in all cases of Sexual Misconduct to be adjudicated by the conduct board is "the preponderance of the evidence" standard – whether it is "more likely than not" that the sex discrimination, dating violence, domestic violence, sexual assault, or stalking occurred. If the evidence presented meets this standard, then the respondent must be found responsible.

Conflict of Interest

If there is a real or reasonably perceived conflict of interest involving the actions of the designated University official or University office typically responsible for handling matters of concern for a student, employee or faculty member, an alternative University representative or University office can be contacted instead. Alternate representatives may include the Office of Academic Affairs, Provost's Office, or Office of Human Resources. The alternate University representative or office may then designate an impartial and appropriate University official to resolve the matter following applicable University policy.

Evidence and Witnesses

Evidence to be presented by complainant(s) and respondent(s) during any hearing on the charges must be presented to members of the University Conduct Board presiding over the hearing at least 24 hours prior to the hearing, who will then share it with the opposing party in advance of the scheduled hearing. The Conduct Board members presiding at and/or hearing the case may exclude evidence that has not been shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing.

If a party intends to present witnesses, a list of proposed witnesses and a written witness statement for each witness must be presented to the hearing officer at least 24 hours prior to the hearing. Written witness statements will be shared with the opposing party as documentary evidence. Witnesses are defined as someone who perceived the actual incident as it occurred. The Conduct Board will have discretion to call or choose not to call proposed witnesses during the hearing. The parties may not question witnesses directly during the hearing, but may submit questions to the Conduct Board, which the conduct board may, in their discretion, ask directly to the witness. Any attempt to coerce or intimidate a proposed witness by any person will constitute Retaliation under this policy subject to appropriate disciplinary action.

Members of the University Conduct Board presiding at and/or hearing the case will have broad discretion and make the final decision relating to the admissibility of all evidence and the presentation of witnesses. When the circumstances warrant, Conduct Board members may, in their sole discretion, consider evidence or admit witnesses submitted with less than 24-hours' notice. Where required by applicable law, witness statements or evidence may be reasonably redacted to protect recognized privacy rights.

Documentation or Recording of Proceedings

The University will seek to maintain a record of all hearings, including findings of fact. The record of the University Conduct Board Hearing will generally be made by audio recording, though alternative methods of recording or documentation may be employed at the University Conduct Board's discretion or as needed.

Notice to Parties

Both the complainant and the accused will be informed, simultaneously, by email to their Southern New Hampshire University email accounts, of (1) the outcome of any disciplinary proceeding involving and allegation of sexual misconduct, (2) the University's appeal process and the rights of both the complainant and the accused to appeal the results (3) any change to the results that occurs prior to the results becoming final, and (4) when such results become final.

Rights of Appeal

Both parties shall have the opportunity to appeal a decision by the University Conduct Board using the procedure described in the Student Handbook. Appeals must be submitted within five (5) business days of the decision, and are only to be allowed on the limited grounds defined in the Student Handbook.

Additional Reporting Resources

A student or applicant who believes that he or she has been discriminated against can file a Charge of Discrimination at their regional U.S. Department of Education Office for Civil Rights.

The New Hampshire Regional Office can be contacted at:

U.S. Department of
Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Telephone: (617) 289-0111
Facsimile: (617) 289-0150
[Email: OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

A student or applicant may also file a Charge of Discrimination at their state Fair Employment Practices agency, such as the New Hampshire Human Rights Commission, which can be contacted at:

New Hampshire Human Rights
Commission
2 Chenell Drive Unit 2
Concord, NH 03301-8501
Telephone: (603) 271-2767
Fax: (603) 271-6339
Email: humanrights@nhsa.state.nh.us

Retaliation

Retaliation against any individual who files a complaint or participates in a harassment inquiry is prohibited. Anyone who reports an actual or suspected incident of harassment, discrimination or violence based on sex, or who participates in an investigation, will not be subjected to retaliation. If a Complainant or witness believes s/he has been subjected to retaliation s/he should contact the Association Vice President for Human Resources, Title IX Coordinator or the Dean of Students, Deputy Title IX Coordinator. Anyone found to be in violation of this retaliation provision will be subject to disciplinary action.