

# Harmony Health Care Institute Inc.

## Policy on Sexual Misconduct & Sexual Harassment

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# Harmony Health Care Institute Inc.

## Policy on Sexual Misconduct & Sexual Harassment

### Statement of Non-Discrimination

HHCI adheres to all federal and state civil rights laws banning discrimination in institutions of higher education, including Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments Act of 1972 (“Title IX”), and New Hampshire’s Law Against Discrimination (RSA 354-A). HHCI does not discriminate against an employee, applicant for employment, student or applicant for admission on the basis of race, religion, color, sex, pregnancy, ethnicity, national identity, citizenship status, disability, age, sexual orientation, gender, gender identity, veteran or military status, predisposing genetic characteristics or any other protected category under applicable local, state, or federal law. To view HHCI’s full statement on non-discrimination, see Harmony Health Care Institute School Catalog.

HHCI is committed to the principles of equal opportunity and seeks to establish and an environment which ensures equal access to education for all HHCI community members including students, applicants for admission, employees, applicants for employment, guests, and visitors. HHCI does not discriminate on the basis of sex in any education program or activity operated by HHCI including, but not limited to, admissions, employment, recruitment, compensation, and athletics as well as access to housing and facilities, classes and schools, counseling, employment assistance to students, health and insurance benefits and services, and fringe benefits. HHCI is required by Title IX and the regulations thereunder not to discriminate in such a manner.

Harassment that is not sexual in nature but is based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation also is prohibited by HHCI’s nondiscrimination policy if it denies or limits a person’s ability to participate in or benefit from HHCI’s educational programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of an environment which denies an individual equal access to education at HHCI. In determining whether such an environment exists, HHCI may take into account acts of discrimination based on gender, gender identity, gender expression, sex- or gender- stereotyping, or sexual orientation.

For additional information or inquiries about the application of Title IX and the regulations thereunder, contact HHCI’s Title IX Coordinator and/or the Assistant Secretary of the United States Department of Education.

The Title IX Coordinator's contact information is as follows:

Rayana Paim, Institutional Support Coordinator & Title IX Coordinator  
10 Al Paul Lane Suite 204  
Merrimack, NH 03054  
Phone: (603) 886-0822 ext. 226  
Email: [rpaim@harmony-health.org](mailto:rpaim@harmony-health.org)

## Scope of Policy & General Reporting Information

HHCI prohibits sex discrimination, sexual misconduct, and sexual harassment. Such behavior violates both law and HHCI policy. HHCI will respond promptly and effectively to reports of conduct as defined in this policy and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this policy.

All members of the HHCI community are encouraged to contact the Title IX Coordinator if they observe or encounter conduct that may be subject to this policy. This includes conduct by employees, students, or third parties.

HHCI provides the following information on how to report sex discrimination, sexual misconduct, and sexual harassment to HHCI and outlines HHCI's response to such reports.

Any person may experience sex discrimination, sexual misconduct, or sexual harassment, irrespective of the identity of the complainant or respondent, and is encouraged to report such incidents to HHCI. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be victimized by the incident, may report sex discrimination, sexual misconduct, or sexual harassment to the Title IX Coordinator. Reports may be made in person, by mail, by telephone, by email, or by using the HHCI's formal grievance forms available in the office of the Title IX Coordinator.

Any member of the HHCI community may report conduct that may constitute sex discrimination, sexual misconduct, or sexual harassment to any supervisor, manager, or Title IX Coordinator. Supervisors, managers, and other designated employees are responsible for promptly forwarding such reports to the Title IX Coordinator to review and investigate sex discrimination, sexual misconduct, and/or sexual harassment complaints.

Reports should be brought forward as soon as possible after the alleged conduct occurs. While there is no stated timeframe for reporting, prompt reporting will better enable HHCI to respond to the report, determine the issues, and provide an appropriate remedy and/or action. All incidents should be reported even if a significant amount of time has passed.

Reports may be made at any time, including during non-business hours, by using the telephone number or email address or by mail to the office address listed for the Title IX Coordinator.

HHCI's Title IX Coordinator is:

Rayana Paim, Institutional Support Coordinator & Title IX Coordinator  
10 Al Paul Lane Suite 204  
Merrimack, NH 03054  
Phone: (603) 886-0822 ext. 226  
Email: [rpaim@harmony-health.org](mailto:rpaim@harmony-health.org)

When the Title IX Coordinator receives a report (either written or oral) of sexual misconduct or sexual harassment, they will contact the complainant to provide supportive measures. For more information about Supportive Measures, see page 20.

Upon receipt of a report, complaint/grievance or formal complaint, the Title IX Coordinator will review the details of the alleged incident and conduct a preliminary assessment to determine which of HHCI's grievance procedures will be applied to address the report. Regardless of the type of incident, HHCI applies prompt and equitable grievance procedures to resolve complaints of sex discrimination, sexual misconduct, and sexual harassment. HHCI's grievance procedures apply equally to all persons regardless of sex, gender, sexual orientation or gender identity.

Formal complaints of incidents of sexual harassment as defined under Title IX involving HHCI students or employees will be addressed using the formal complaint and grievance process as described in pages 29-38 of this policy.

Complaints/grievances regarding incidents of sexual misconduct which fall outside of the Title IX definition of sexual harassment (see pages 8-12 for Title IX definitions) or which occurred outside of HHCI's own education programs or activities or outside of the United States will be addressed using the complaint/grievance procedures outlined in [HHCI's School Catalog](#).

Incidents of sex discrimination which do not involve sexual harassment as defined under Title IX or sexual misconduct will be addressed using the grievance procedures outlined in HHCI's Complaint/Grievance Policy found in [HHCI's School Catalog](#).

When possible, the Title IX Coordinator will notify the reporting party of HHCI's grievance procedures which correspond to the alleged incident.

## HHCI Responsibilities

In accordance with state and federal law, HHCI shall:

- Offer sexual harassment prevention training and education to the HHCI community, and provide sexual harassment prevention training and education to each supervisory employee;
- Offer prevention education program to all incoming students and new employees, and ongoing prevention and awareness campaigns to the HHCI community, to promote awareness of rape and acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, including the definition of consent, options for bystander intervention, and risk reduction awareness information;
- Offer annual training on issues related to sex discrimination, sexual misconduct, and sexual harassment, as defined in this policy for individuals conducting formal investigations of reports or conducting hearings;
- Provide all members of the HHCI community with a process for reporting sex discrimination, sexual misconduct, and sexual harassment in accordance with the policy;
- Identify on- and off- campus resources for reporting sex discrimination, sexual misconduct, and sexual harassment, including law enforcement, medical, and victim support services;
- Provide prompt and effective response to reports of sex discrimination, sexual misconduct, sexual harassment, or reports of retaliation related to reports of sex discrimination, sexual misconduct, or sexual harassment in accordance with the policy;
- Provide written notification of this policy; and
- Designate trained individuals, including the Title IX Coordinator, to serve as resources for members of the HHCI community who have questions or concerns regarding behavior that may be sex discrimination, sexual misconduct, or sexual harassment.

## Title IX Coordinator Responsibilities

All educational institutions receiving federal financial assistance must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX of the Education Amendment of 1972, which prohibits sex discrimination in education programs and activities. These designated employees are generally referred to as Title IX Coordinators.

The following person has been designated as the Title IX Coordinator at HHCI:

Rayana Paim, Institutional Support Coordinator & Title IX Coordinator  
10 Al Paul Lane Suite 204  
Merrimack, NH 03054  
Phone: (603) 886-0822 ext. 226  
Email: [rpaim@harmony-health.org](mailto:rpaim@harmony-health.org)

The Title IX Coordinator is responsible for responding to reports and complaints of sex discrimination, sexual misconduct, and sexual harassment on behalf of HHCI. The Title IX Coordinator's responsibilities include, but are not limited to:

- Receiving the required training in relevant state and federal laws and HHCI policies and procedures;
- Advising an individual, including a complainant, third-party reporter, or respondent, about HHCI's policies and procedures related to sex discrimination, sexual misconduct, and sexual harassment as well as explaining courses of action available at HHCI and the courses of action available externally regarding any such incidents, including reporting to law enforcement;
- Receiving incident reports of sex discrimination, sexual misconduct, and sexual harassment;
- Informing complainants of the availability of supportive measures;
- Informing complainants of the process for filing a formal complaint under Title IX;
- Offering supportive measures to complainants designed to restore or preserve equal access to HHCI's education program or activity;
- Conducting Title IX investigations;
- Working with respondents to provide supportive measures, as appropriate;
- Coordinating the effective implementation of both supportive measures (to one or both parties) and remedies to a complainant as well as disciplinary sanctions which may be imposed upon a respondent after the formal complaint process;
- Disseminating the policy widely to the HHCI community;
- Providing prompt and effective response to reports of sex discrimination, sexual misconduct, and sexual harassment in accordance with the policy;
- Maintaining records of reports of sex discrimination, sexual misconduct, or sexual harassment at HHCI and actions taken in response to reports, including records of investigation, informal resolutions, and disciplinary sanctions as well as remedies, as appropriate;
- Identifying and addressing any patterns of systemic problems that arise during the review complaints; and
- Handling other tasks and responsibilities as determined by the Title IX Coordinator.

## Definitions

The following section defines sex discrimination, sexual misconduct, sexual harassment under Title IX, and other terms related to the Title IX grievance process.

### I. Sex discrimination

Discrimination against an individual based on that person's sex, gender, gender identity or sexual orientation.

### II. Sexual Misconduct

Sexual misconduct is defined as intimidating, bullying, threatening or coercion of unwanted sexual advances either physically or verbally, including by means of social media and / or technological devices. Sexual harassment can also include an inappropriate promise for sexual favors. Sexual harassment can take the form of crude language of sexual nature, mild annoyances / transgressions to attempted sexual assault.

Additional forms of sexual misconduct include:

- Administration of date rape drug(s)
- Touching of a non-private body part with the person's own private body part
- Attempted sexual assault
- Sexual penetration such as cunnilingus; fellatio; anal intercourse; any intrusion, however slight, of any part of the actor's body or victim's body, including emissions, or any object manipulated by the actor or victim into the oral, genital, or anal openings of the actor's body; or any act which forces, coerces, or intimidates the victim to perform any sexual penetrations on the actor, on another person, or on himself.
- **Abuse:** The commission (or attempted commission) of one or more of the acts described in subparagraphs (a) through (h) by a family or household member or by a current or former sexual or intimate partner, where such conduct is determined to constitute a credible present threat to the petitioner's safety.
  - Assault or reckless conduct as defined in RSA 631:1 through RSA 631:3
  - Criminal threatening as defined in RSA 631:4
  - Sexual assault as defined on pages 9-10 of the this Policy, and in RSA 631:2 through RSA 631:5
  - Interference with freedom as defined in RSA 633:1 through RSA 633:3-a
  - Destruction of property as defined in RSA 634:1 and RSA 634:2
  - Unauthorized entry as defined in RSA 635:1 and RSA 635:2
  - Harassment as defined in RSA 644:4
  - Cruelty to animals as defined in RSA 644:8



- Other behaviors defined as sexual harassment under Item III of this policy which occur outside of HHCI's education program or activity and/or the United States

### III. Sexual Harassment under Title IX

Sexual Harassment is a form of sex discrimination. Title IX defines sexual harassment as conduct on the basis of sex that satisfies **one or more of the following three types of behavior**:

#### 1. Quid pro quo harassment

A HHCI employee conditioning provision of an aid, benefit or service of the HHCI on an individual's participation in unwelcome sexual conduct. For example, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of or opportunities in any educational or employment program.

Quid pro quo harassment does not need to be severe and pervasive as defined under Item III.2 below, because the abuse of authority in the form of even a single instance is inherently offensive and serious enough to jeopardize equal educational access.

#### 2. Denial of Equal Educational Access due to Severe, Pervasive, and Objectively Offensive Conduct (Davis Standard)

Unwelcome conduct determined by a reasonable person to be so **severe, pervasive and objectively offensive** that it effectively denies a person equal access to HHCI's education program or activity.

Signs of enduring *unequal* educational access due to severe, pervasive, and objectively offensive sexual harassment may include withdrawing from a class to avoid a harasser, a decline in a student's grade point average, or having difficulty concentrating in class. However, no concrete injury is required to conclude that serious harassment would deprive a reasonable person in the complainant's position of the ability to access HHCI's education program or activity on an equal basis with persons who are not suffering such harassment.

#### 3. Sexual Assault, Dating Violence, Domestic Violence, and Stalking

**Sexual Assault:** Forcible or non-forcible sex offenses under the FBI's Uniform Crime Reporting program (U.C.R.). Various forms of sexual assault include:

**Sex Offenses, Forcible:** Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

**Forcible Rape:** (Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

**Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sexual Assault with an Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Forcible Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sex Offenses, Nonforcible:** (Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse.

**Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent. In New Hampshire, the age of consent is 16.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and 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

**Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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. 34 U.S.C. 12291 (a)(8)

In New Hampshire, a person commits the crime of partner or family member assault (also called domestic violence) by:

- Causing bodily injury
- Negligently causing bodily injury with a weapon, or
- Creating reasonable apprehension of bodily injury against a partner or family member
- Destruction of property or unauthorized entry

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. According to the Clery Act, for the purposes of this definition – (A) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's Property, (B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim, and (C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Sexual assault, which includes rape, is referenced in the third prong of the definitions of sexual harassment. Note that any report of sexual assault, dating violence, domestic violence, or stalking is not subject to the Davis elements referenced in the second prong of definitions of sexual harassment, which consider whether the incident was "severe, pervasive, and objectively offensive." A single act of sexual assault, dating violence, domestic violence, and stalking does not need to demonstrate severity, pervasiveness, objective offensiveness, or denial of equal access to education because denial of equal access is assumed. Therefore, complainants can feel

confident reporting such incidents to HHCI and receive supportive measures without wondering whether sexual assault is 'bad enough' to report.

HHCI is required under Federal Title IX regulations to respond to incidents of sexual harassment as stated above. Additionally, conduct outlined in the above definitions of sexual harassment and sexual misconduct may be considered a violation of New Hampshire law and subject to mandatory reporting and/or criminal investigation.

Sexual harassment may include incidents between any members of the HHCI community, including faculty or other staff, student employees, students, coaches, interns, and non-student or non-employee participants in programs (e.g., vendors, contractors, visitors). Sexual harassment may occur in hierarchical relationships, between peers, or between individuals of the same sex or opposite sex. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

### Relevant Terms

The following terms are related to the grievance process required under Title IX to address incidents of sexual harassment. The grievance process is described on pages 29-38 of this policy.

**Actual Knowledge:** Notice of sexual harassment or allegations of sexual harassment delivered to HHCI's Title IX Coordinator. Such notice may be written or oral and includes reports sent to the Title IX Coordinator in person, by mail, by telephone, by email, telephone call, in-person, or by using the HHCI's formal grievance forms available in the office of the Title IX Coordinator.

**Advisor:** An individual who provides support, guidance, and/or assistance to the complainant or responding party throughout the investigation, hearing, appeals, and/or informal resolution process. Complainants and respondents have the right to select an advisor of their choice. Advisors may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is both eligible and available. Advisors are required during the hearing process. If a party does not have an advisor present at the hearing process, HHCI will provide the party with an advisor. Additional information about the role of advisors can be found on page 18-19.

**Complaint/grievance:** A document that initiates the grievance process under the HHCI's Complaint/Grievance Policy against a respondent alleging sexual misconduct. For more information about how to file a complaint, see pages 34-35 of HHCI's School Catalog.

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment. A complainant may, but is not required to be, a student, employee, or other HHCI community member.

**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 is 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. Consent is not valid where an actor overcomes the victim through the actual application of physical force, physical violence or superior physical strength. Consent is not valid where the victim submits under circumstances involving false imprisonment, kidnapping or extortion. Consent is not valid when the actor, without knowledge or consent of the victim, administers or has another person administer to the victim any intoxication substance which mentally incapacitates the victim.

Where alcohol or other drugs are involved, evaluating the victim’s ability to consent 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.

**Education Program or Activity:** All of the operations of HHCI, which may be on or off campus, as well as locations, events, or circumstances over which HHCI exercises substantial control over both the respondent and the context in which an incident of sexual harassment occurs. Additionally, any building owned or controlled by student organizations which are officially recognized by HHCI are also considered to be part of HHCI’s education program or activity, irrespective of whether the building is on or off campus and irrespective of whether HHCI exercises substantial control over the respondent and the context of the harassment other than the fact that HHCI officially recognizes the fraternity or sorority that owns or controls the building. Therefore, Title IX requires HHCI to investigate formal complaints alleging sexual harassment that occurred in a fraternity or sorority building (located on or off campus) owned by a fraternity or sorority that is officially recognized by HHCI as a Greek life organization.

HHCI’s education program or activity also extends to operations which include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of HHCI.

**Formal Complaint:** A document that initiates the grievance process outlined in pages 29-38 of this policy against a respondent alleging Title IX sexual harassment. A formal complaint must be

filed by the complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that HHCI investigate the allegation of sexual harassment. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in an education program or activity at HHCI. A formal complaint may be a document delivered to the Title IX Coordinator's office or electronic submission sent via email which contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the complaint.

Submission of a formal complaint to HHCI is not equivalent to filing charges with local law enforcement and does not require a complainant to file charges with local law enforcement. For more information about reporting incidents of sexual misconduct or sexual harassment to local law enforcement, see New Hampshire.

**Report:** Notice, either written or oral, provided to the Title IX Coordinator of an alleged incident of sex discrimination, sexual harassment, or sexual misconduct. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be the victim the incident may report sex discrimination, sexual misconduct or sexual harassment. Reports may be made to the Title IX Coordinator in person, by mail, by telephone, by email, or by using the HHCI's formal grievance forms available in the office of the Title IX Coordinator. Reports may be made at any time, including non-business hours, by using the telephone number or email address or by mail to the office address listed for the Title IX Coordinator. A report is distinguished from a formal complaint or complaint/grievance as defined above.

**Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or sexual misconduct.

**Standard of Evidence (Preponderance of the Evidence)** The standard used to determine if a Title IX policy violation occurred. HHCI uses a "preponderance of the evidence" standard, which means that the evidence demonstrated in the grievance process demonstrates that it is more likely than not that the alleged conduct or policy violation occurred.

**Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to HHCI's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or HHCI's educational environment, or deter sexual harassment. Supportive measures are described in further detail on page 20 of this policy.

## Additional Information

### Amnesty Provision

Victims, bystanders, or other parties may have concerns about reporting sex discrimination, sexual misconduct or sexual harassment because of HHCI's drug free campus and alcohol policy. HHCI's primary concern is student safety, and any drug or alcohol rules violations generally are not subject to a conduct complaint if the violation occurred immediately before and during the incident giving rise to the sex discrimination, sexual misconduct or sexual harassment report. Any drug or alcohol rule violations will be addressed separately from the sex discrimination, sexual misconduct, or sexual harassment allegation. In addition, HHCI's Title IX and / or any other HHCI personnel involved in investigating violation of this Policy have discretion to grant amnesty from violations of the of HHCI'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.

### Confidentiality

HHCI will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute or regulations, 20 U.S.C. 1232g and 34 CFR part 99, or required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Requests regarding the confidentiality of reports of sex discrimination, sexual misconduct, or sexual harassment will be considered in determining an appropriate HHCI response; however, such requests will be considered in the dual context of HHCI's obligation to ensure a working and learning environment free from sex discrimination, sexual misconduct, and sexual harassment and the rights of the accused to be informed of the allegations and their source.

### Disciplinary Sanctions

Respondents found responsible for sexual harassment as defined in this policy may be subject to disciplinary sanctions at the conclusion of the grievance process. Disciplinary sanctions may include, but are not limited to:

- A warning;
- Temporary exclusion from an activity or class;
- Restrictions on communication or contact with the individual who made the report;
- Censure;
- Disciplinary Probation;
- Suspension;
- Termination or expulsion from the school/program.

## False Accusations

HHCI's Student Code of Conduct prohibits parties, including complainants, respondents, and witnesses, from knowingly making false statements or knowingly submitting false information during the grievance process.

HHCI reserves the right to charge an individual with a Student Code of Conduct violation for making a materially false statement in bad faith during the course of the grievance process. Such charges do not constitute retaliation on behalf of HHCI against the individual as the individual has violated HHCI's own policy.

## Jurisdiction

Any person may experience sex discrimination, sexual misconduct, or sexual harassment anywhere. Therefore, any individual may report any incident to the Title IX Coordinator. However, HHCI's response to such incidents is dependent upon the location of the alleged incident.

The Title IX grievance procedures described in this policy must be applied when alleged incidents of sexual harassment as defined in this policy occur in HHCI's own education program or activity as defined on page 13 of this policy and in the United States.

Alleged incidents of sexual harassment or sexual misconduct which occur outside of HHCI's own education program or activity or outside of the United States, for example on a study abroad program, will be addressed using the complaint/grievance process outlined in HHCI's School Catalog.

HHCI's jurisdiction extends to electronic, digital, and online sexual harassment. Factual circumstances of electronic, digital, and online sexual harassment will be analyzed on a case by case basis to determine the context in which the harassment occurred. Such sexual harassment which occurs in an education program or activity as defined on page 13 of this policy (in which HHCI exercises substantial control over the respondent and the context in which the harassment occurs) will be addressed using the Title IX grievance process outlined in this policy. Incidents of electronic, digital, and online sexual harassment or misconduct which occur outside of HHCI's own education program or activity are subject to the complaint/grievance procedures described in the HHCI's School Catalog.

For clarification regarding incidents which occur on-campus versus off-campus, see the definition of Education Program or Activity on page 13 of this policy.



## Remedies

Remedies are provided to the complainant and designed to restore or preserve their equal access to HHCI's education program or activity. Remedies may be the same individualized services as described on page 20 as Supportive Measures. However, remedies do not need to be non-disciplinary or non-punitive and do not need to avoid burdening the respondent. Such remedies may include, but are not limited to: separating the parties, placing limitations on contact between the parties, counseling, an opportunity to repeat course work without penalty, changes to student housing assignments, or other appropriate interventions, such as changes in academic, living, transportation, or working situations.

The Title IX Coordinator is responsible for implementation of any remedies.

## Retaliation

HHCI prohibits any person from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX and its implementing regulations.

This retaliation provision may apply to any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, any witness, or any other individuals who assists someone with a report, or participates (or refuse to participate) in any manner in an investigation, proceeding, or hearing of HHCI's Title IX grievance process. This policy includes protecting the complainant, respondent, and witnesses from being coerced, intimidated, threatened, or otherwise discriminated against based on their participation or refusal to participate in the Title IX grievance process.

Retaliation includes intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of the grievance process does not constitute retaliation. However, a determination regarding responsibility alone is not sufficient to conclude that an individual made a materially false statement in bad faith. A complainant's allegations may not have been false even where the ultimate determination is that the respondent is not responsible and/or that the

complainant may not have acted subjectively in bad faith (and conversely, that a respondent may not have made false, or subjectively bad faith, denials even where the respondent is found responsible).

Exercising rights protected under the First Amendment does not constitute retaliation.

The parties have the right to discuss the allegations under investigation, but this right does not preclude HHCI from warning the parties not to discuss or disseminate the allegations in a manner that constitutes retaliation or unlawful tortious conduct. It is unacceptable for any person to leak or disseminate information to retaliate against another person.

Complaints alleging retaliation may be filed with HHCI's Title IX Coordinator, which will be handled using the prompt and equitable grievance procedures available for non-sexual harassment sex discrimination complaints by students and employees, as referenced in HHCI's School Catalog.

### Right to an Advisor

All parties are entitled to an advisor of their choosing to assist them throughout the Title IX grievance process. The advisor may be a friend, counselor, faculty member, family member, attorney or any other individual a party chooses to advise them who is eligible and available to serve during the grievance process. Any person who may be called as a witness may not serve as an advisor. In the event that a party needs assistance finding an advisor, they may contact the Title IX Coordinator for guidance.

Parties are entitled to be accompanied by their advisor in all meetings, interviews, hearings, and appeals at which the party is entitled to be present during the grievance process. Parties are required to have an advisor present at the live hearing. If a party does not have an advisor available to be present at the live hearing, HHCI will provide the party with an advisor of HHCI's choice in HHCI's sole discretion, who may or may not be an attorney.

HHCI cannot guarantee equal advisory rights. Consequently, if one party selects an advisor who is an attorney but the other party does not or cannot afford an attorney, HHCI is not obligated to provide an attorney or other advisor, except at the hearing. HHCI is not required to provide an attorney as an advisor at the hearing.

All advisors are subject to the same HHCI rules whether they are attorneys or not. Advisors may not present on behalf of their advisee in a meeting or interview. Advisors must conduct all cross-examination of the other party and all witnesses in a live hearing even in the event that the advisee is not present at the live hearing.

Advisors should request or wait for a break in the interview, hearing, or meeting if they wish to interact with HHCI Title IX personnel. Advisors may confer quietly with their advisees as

necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation.

Advisors may be given an opportunity to meet in advance of any interview or hearing with the HHCI Title IX personnel during the grievance process.

Any advisor who fails to follow the guidelines established by HHCI in the grievance process will be provided an oral warning. If the advisor continues to disrupt or otherwise fails to follow those guidelines, the advisor will be asked to leave the proceeding. If an advisor is asked to leave, the meeting, interview, hearing or other proceeding will be suspended until the party advisor is reinstated; the party secures another advisor to accompany them at that meeting, interview, hearing or proceeding; or HHCI provides the party with another advisor for the hearing.

If an advisor is asked to leave a proceeding, the Title IX Coordinator will determine whether the advisor may be reinstated or must be replaced by a different advisor for the remainder of the grievance process.

The parties must advise the Title IX Coordinator of the identity of their advisor at least two (2) business days before the date of their first meeting with Title IX Coordinator and scheduled hearing. The parties must provide subsequent timely notice to the investigators if they change advisors at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with University officials.

## Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant and respondent without unreasonably burdening the other party.

Supportive measures are designed to:

- Restore or preserve equal access to the party's education at HHCI;
- Protect the safety of all parties or HHCI's educational environment; or
- Deter sexual harassment.

HHCI Supportive measures include, but are not limited to:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures as necessary, such as changes in academic, living, transportation, or working situations.

HHCI will offer supportive measures to every complainant when the Title IX Coordinator receives a report of an incident of sex discrimination, sexual misconduct, or sexual harassment. Examples of a report may include written or oral reports, complaints/grievances, or formal complaints submitted by a complainant, third-party reporter, or other HHCI community member.

Upon receiving a report, complaint/grievance, or formal complaint of an alleged incident of sex discrimination, sexual misconduct, or sexual harassment, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures and explain the option for filing a formal complaint as well as the formal complaint process under Title IX and/or the complaint/grievance process described in HHCI's Student Catalog. The complainant will have the opportunity to express what they would like in the form of supportive measures, and the Title IX Coordinator will take into account the complainant's wishes in determining which supportive measures to offer. Supportive measures will be available to complainants regardless of whether or not they wish to file a formal complaint to initiate a grievance process.

Supportive measures remain available to the complainant before and after filing a formal complaint of sexual harassment or a complaint/grievance of sexual misconduct as well as when no formal complaint or complaint/grievance has been filed. Additionally, HHCI will provide supportive measures to complainants even when the alleged incident does not constitute sexual harassment under Title IX, fall within the jurisdictional conditions under Title IX, or constitute

sexual misconduct under HHCI School Catalog. For example, a complainant may still seek supportive measures when an incident of sexual harassment occurs outside of HHCI's education program or activity or outside of the United States. A complainant may request supportive measures when the alleged conduct is considered to be sexual misconduct under this policy but does not qualify as sexual harassment under Title IX.

Supportive measures may remain in place throughout an appeal process.

Regardless of the result of the Title IX grievance process, HHCI reserves the right to continue supportive measures. Therefore, if HHCI determines that a respondent is not responsible for violating Title IX or the Code of Conduct, HHCI may continue providing supportive measures to a complainant or respondent to restore or preserve equal access to their education.

HHCI adheres to Federal Title IX regulations, which require the equitable treatment of complainants and respondents. Equitable treatment under Title IX includes providing supportive measures and remedies for complainants and avoiding disciplinary action against respondents until the formal grievance process as outlined in this policy is completed. While respondents will be offered supportive measures, Title IX does not require equality or parity with respect to the supportive measures provided to complainants and respondents.

**Confidentiality & Supportive Measures:** HHCI will keep confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of HHCI to provide the supportive measures. For example, where a no-contact order is appropriate, the respondent would need to know the identity of the complainant in order to comply with the no-contact order, or campus security is informed about the no-contact order in order to help enforce its terms. For more information about confidentiality during the Title IX grievance process, see page 15 of this policy.

In order for HHCI to provide supportive measures to the complainant, HHCI must know the identity of the complainant. Therefore, it is not possible for the complainant to remain anonymous and receive supportive measures because at least one school official (such as the Title IX Coordinator) must know the complainant's identity in order to offer and implement any supportive measures. A complainant or third party may desire to report sexual harassment without disclosing the complainant's identity—and may do so using the reporting options detailed in on page 23, but HHCI will be unable to provide supportive measures in response to the report without knowing the complainant's identity.

**Implementation of Supportive Measures:** The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Although supportive measures may require collaboration with various Departments on campus, the Title IX Coordinator will serve as the point of contact for complainants and respondents.

[Emergency Removal](#)

HHCI reserves the right to remove a respondent from a HHCI education program or activity without undergoing a grievance process on an emergency basis in the event that HHCI undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

In the event of emergency removal, HHCI will provide the respondent with post-removal notice and the opportunity to challenge the decision immediately following the removal.

#### Administrative Leave

HHCI reserves the right to place a non-student employee respondent on administrative leave during the pendency of a grievance process outlined in this policy.

## Reporting Sex Discrimination, Sexual Misconduct & Sexual Harassment

Any person may report an incident(s) of sex discrimination, sexual misconduct, or sexual harassment to the Title IX Coordinator. The reporting party may be the person directly affected by the alleged incident (referred to as “complainant”) or a third party. Reports of sex discrimination, sexual misconduct, and sexual harassment may be written or verbal and may be made at any time (including non-business hours) in person, by using the telephone number or email address, or by mail to the office address, of the Title IX Coordinator.

HHCI’s Title IX Coordinator contact information is as follows:

Rayana Paim, Institutional Support Coordinator & Title IX Coordinator  
10 Al Paul Lane Suite 204  
Merrimack, NH 03054  
Phone: (603) 886-0822 ext. 226  
Email: rpaim@harmony-health.org

When the Title IX Coordinator receives notice through a report (either written or oral), complaint/grievance, or formal complaint of an alleged incident of sex discrimination, sexual misconduct, or sexual harassment, the Title IX Coordinator will promptly contact the complainant to:

- Discuss the availability of supportive measures, as defined on page 20 of this policy;
- Consider the complainant’s wishes with respect to supportive measures;
- Inform the complainant of the availability of supportive measures with or without filing a complaint or formal complaint;
- HHCI will explain to the complainant:
  - HHCI’s procedures for handling non-sexual harassment sex discrimination;
  - Process for filing a complaint/grievance under HHCI’s Complaint/Grievance Policy as outlined on pages 34-35 of HHCI’s Student Catalogue; and/or
  - Process for filing a formal complaint under Title IX, as outlined on page 26-28 of this policy.

The Title IX Coordinator will conduct a preliminary assessment of the report, complaint/grievance, or formal complaint to assist the complainant in determining which grievance process or procedures the complainant may initiate, if he, she, or they. For more information about the Preliminary Assessment, see page 25.

In addition to reporting an incident of sex discrimination, sexual misconduct, or sexual harassment to the Title IX Coordinator, individuals may also report to the Merrimack Police Department.

## Reporting to Merrimack Police Department

HHCI encourages anyone who has experienced sexual misconduct or sexual harassment to pursue criminal action for incidents that may also be crimes under applicable criminal statutes. Law enforcement officers are trained in handling sexual assault and other cases involving sexual misconduct and harassment. Reporting to law enforcement does not require prosecution of the offense and the reporting party's wishes will be taken into account by law enforcement. The police report and any supporting evidence may be turned over to Merrimack County District Attorney, which decides whether there is sufficient evidence to prosecute. Information about the law enforcement process of reporting, the investigation, arrests, filing of charges, hearings, the trial and sentencing will be explained at the time of the report. HHCI employees will assist the reporting party in contacting local law enforcement, if explicitly requested by the reporting party. However, reporting an incident of sexual misconduct or sexual harassment to HHCI does not in any way equate to reporting the incident to local law enforcement. An individual may decide to report an incident exclusively to HHCI, exclusively to local law enforcement, or to both HHCI and local law enforcement.

Should an individual report an incident of sexual misconduct or sexual harassment to both HHCI and local law enforcement, HHCI will comply with law enforcement requests for cooperation. HHCI may need to coordinate its fact-finding efforts with the police investigation. Such cooperation may require HHCI to temporarily suspend its own investigation into the alleged incident while local law enforcement gathers evidence. During this time, HHCI will continue to offer supportive measures to the complainant. As soon as local law enforcement or HHCI determines that a delay is no longer necessary, HHCI will promptly resume its Title IX or Code of Conduct investigation.

HHCI policy, definitions, and standard of proof differ from New Hampshire's criminal law. Neither law enforcement's determination whether to prosecute a respondent nor the outcome of any criminal prosecution will determine whether sexual misconduct or sexual harassment has occurred under this HHCI policy. Proceedings under this policy may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus.



## What Happens After a Report is Submitted to the Title IX Coordinator?

### Preliminary Assessment

Upon receiving a report, complaint or formal complaint of an alleged incident of sex discrimination, sexual misconduct, or sexual harassment, the Title IX Coordinator will conduct a preliminary assessment to determine the HHCI's response using the following threshold criteria:

1. Would the incident be considered "sexual harassment" under Title IX, as defined on pages 8-12 of this policy?
  - a. In assessing the type of incident, the Title IX Coordinator will determine if the alleged conduct was either:
    - i. Quid pro quo harassment (involving an HHCI employee);
    - ii. Sexual Assault, Dating Violence, Domestic Violence, or Stalking; or
    - iii. Unwelcome conduct that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to HHCI program or activity
2. Did the incident occur in an HHCI education program or activity, as defined on page 13 of this policy?
3. Did the incident occur in the United States?

If the answer is "no" to any of these questions, the alleged incident may be considered one or more of the following forms of conduct and addressed accordingly:

1. Non-sexual harassment sex discrimination: HHCI's grievance procedures for handling incidents of sex discrimination can be found in [HHCI's Student Catalog](#).
2. Sexual Misconduct: Incidents of sexual misconduct will be addressed using the complaint/grievance procedures outlined on pages 34-35 of HHCI's Student Catalog.
3. Non-actionable: Complainant may request and HHCI may provide supportive measures as appropriate

If the answer is "yes" to the three threshold criteria, the incident may constitute sexual harassment under Title IX, and the complainant may file a formal complaint under Title IX to initiate an investigation and grievance process.

After conducting the assessment, the Title IX Coordinator will send a written notification of their preliminary assessment to the complainant.

The complainant may appeal the Title IX Coordinator's preliminary assessment of the alleged incident to the HHCI President within 10 days of receiving written notice from the Title IX

Coordinator. If a formal complaint or complaint is filed, the respondent may appeal the Title IX Coordinator's preliminary assessment to the Program Activity Coordinator within ten (10) days of receiving the complaint.

Complainants may request supportive measures or an investigation into allegations of conduct that do not meet Title IX jurisdictional conditions, under HHCI's Student Code of Conduct.

Regardless of whether an alleged incident is determined to constitute sexual harassment, sexual misconduct, or sex discrimination, and regardless of whether or not the complainant files a formal complaint under Title IX or a complaint under HHCI's Student Code of Conduct, HHCI will provide supportive measures to the complainant. For more information about Supportive Measures, see page 20 of this policy.

### Filing a Formal Complaint

Filing of a formal complaint of an alleged incident of sexual harassment under Title IX initiates the investigation and grievance process outlined on pages 29-38 of this policy.

### Who Can File a Formal Complaint?

The complainant or Title IX Coordinator must file the formal complaint.

Third parties cannot file formal complaints. Additionally, fundamental fairness and due process principles require that a respondent be informed of the details of the allegations made against them, to the extent that the details are known, to provide an adequate opportunity for the respondent to respond. Therefore, a complainant cannot remain anonymous and file a formal complaint. However, the Title IX Coordinator will keep confidential the identities of the complainant and respondent (and witnesses) from anyone not involved in the grievance process, except as permitted by FERPA, required by law, or as necessary to conduct the grievance process. For more information about confidentiality, see page 15 of this policy.

While a formal complaint requires the complainant's identity, Title IX does not require a complainant to identify the respondent in a formal complaint. If a complainant does not know the respondent's identity and file a formal complaint, HHCI is still required to investigate the formal complaint because an investigation may reveal the respondent's identity. If the respondent's identity becomes known, HHCI will send both parties the written notice of allegations (see page 31 of this policy), follow the grievance process outlined in this policy, and may impose disciplinary sanctions against the respondent at the conclusion of the grievance process. However, if a respondent's identity remains unknown, HHCI will be unable to comply with the required grievance process outlined in this policy and therefore unable to impose disciplinary sanctions against the respondent.

Under certain circumstances, the Title IX Coordinator may determine that an investigation is necessary, even when the identity of the complainant is unknown or the complainant does not

want an investigation. In this case, the Title IX Coordinator may choose to sign a formal complaint and initiate the grievance process. When this occurs, the Title IX Coordinator is not a complainant or otherwise considered a party included in the grievance process. The alleged victim will remain the complainant and be treated as a party in the grievance process. However, the complainant is not required to participate in the grievance process.

#### How to File a Formal Complaint:

Formal complaints may be submitted in person, by mail, or by email to the Title IX Coordinator, whose contact information is listed on page 5 of this policy. Formal complaints cannot be filed by telephone.

#### What is a Formal Complaint?

A formal complaint is a document or electronic submission (such as an email) that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the complaint.

A formal complaint alleges sexual harassment against a respondent and requests that HHCI investigate the allegation of sexual harassment. Therefore, submitting a formal complaint indicates an intentional decision on behalf of the complainant to initiate the Title IX grievance process.

#### When Can A Formal Complaint be Filed?

There is no time limit on a complainant's decision to file a formal complaint, so the decision to sign and file a formal complaint does not need to occur in the immediate aftermath of an alleged incident or reporting an incident.

However, at the time of filing a formal complaint, the complainant must be participating in or attempting to participate in a HHCI education program or activity.

This requirement does not exclude a complainant who has graduated or is on a leave of absence if the complainant intends to apply to a different HHCI program, intends to remain involved in HHCI's alumni programs and activities, or may intend to re-apply after a leave of absence.

#### Dismissal of a Formal Complaint

The investigation of the conduct alleged in the formal complaint may uncover new information about the incident. In accordance with Title IX, HHCI must dismiss the formal complaint of sexual harassment under Title IX if at any point during the investigation or hearing process it is determined that the conduct alleged in the formal complaint:

1. Would not constitute sexual harassment as defined under Title IX (defined on pages 8-12 of this policy), even if proven;
2. Did not occur in HHCI education program or activity; or
3. Did not occur against a person in the United States.

Such dismissal does not indicate that an HHCI policy violation did not occur. Therefore, HHCI may choose to address such incidents using HHCI's complaint/grievance policy.

HHCI reserves the right to dismiss a formal complaint or allegations therein, if at any time during the investigation or hearing:

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by HHCI
3. Specific circumstances prevent HHCI from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal of a formal complaint (either as required or not), HHCI will promptly send a written notice of dismissal and reason(s) therefor simultaneously to both parties.

The complainant and respondent have the right to appeal the HHCI's dismissal of the formal complaint or any allegations therein on several bases. For more information about the bases of appeal, see page 36 of this policy.

#### Consolidation of Formal Complaints

HHCI may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this policy to the singular "party," "complainant," or "respondent" include the plural, as applicable.

# Grievance Process for Formal Complaints of Sexual Harassment

## General Information

The following grievance process complies with 34 CFR § 106.45 of Title IX. All processes, provisions, and rules stated in this policy apply equally to both parties—complainants and respondents.

HHCI will treat complainants equitably by providing the complainant and respondent with supportive measures throughout the grievance process, following the grievance process before imposing any disciplinary sanctions (or other actions that are not supportive measures) against a respondent, and providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against a respondent.

HHCI grievance process relies upon an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence. HHCI applies the preponderance of the evidence standard, means that the evidence demonstrated that it is more likely than not that the alleged conduct or policy violation occurred. HHCI applies the same standard of evidence for formal complaints against students and employees, including faculty, and applies the same standard of evidence to all formal complaints of sexual harassment.

Determination of a party's credibility will not be based on a person's status as a complainant, respondent, or witness. HHCI presumes that the respondent is not responsible for the alleged conduct until a determination regarding responsibility at the conclusion of the grievance process.

All HHCI employees involved in the Title IX investigation and grievance process have received the appropriate training to participate in the Title IX grievance process, and training materials have been made publicly available on HHCI's website. Training topics include, but are not limited to, the definition of sexual harassment under Title IX, steps to conducting a Title IX investigation and grievance process, and how to serve impartially, including by avoiding prejudgment of facts, conflicts of interest, and bias.

If a complainant or respondent considers HHCI's treatment of a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX, they may file a report of sex discrimination with the Title IX Coordinator.

## Conflicts of Interest

HHCI employees participating in the Title IX grievance process including the Title IX Coordinator, investigators, decision-makers, and informal resolution facilitators as well as external parties employed by HHCI to complete Title IX investigation and adjudication functions (hearings, appeals, and informal resolution options) are prohibited from having a conflict of interest or bias

for or against complainants or respondents generally or as an individual complainant or respondent.

In an effort to avoid potential conflicts of interest, HHCI may provide the names and titles of internal and external Title IX investigators and adjudicators to the parties at the initiation of the investigation, informal resolution process, or hearing. Such information will be provided no less than five (5) business days before any meeting or hearing between the party and the investigator or adjudicator. The complainant or respondent may request the removal of an investigator or adjudicator on the grounds of personal bias or other conflicts of interest by submitting a written statement to the Title IX Coordinator setting forth the basis for the request no more than three (3) days after receiving notice of the identity of the individual involved in the Title IX grievance process. The Title IX Coordinator will review the written statement and make a determination if there is a conflict of interest. Appropriate steps will be taken to ensure that no conflict of interest exists on the part of anyone involved in the Title IX investigation, hearing, appeals, or informal resolution processes. If a conflict of interest exists, another individual will be assigned to the appropriate role. If a conflict of interest exists between the complainant or respondent and the Title IX Coordinator, reports should be directed to the HHCI president.

#### Timelines for the Grievance Process

HHCI aims to complete the Title IX grievance process, including appeals and informal resolution processes, in a reasonably prompt time frame. Generally, HHCI will conclude the grievance process within ninety (90) days.

HHCI reserves the right to allow for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of the party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

#### I. Written Notice

Upon receipt of a formal complaint, HHCI will provide a written notice of allegations to both parties, if known, simultaneously. The notice includes the following information:

- A. Notice of the allegation of sexual harassment, as defined on pages 8-12 of this policy, containing sufficient details known at the time, including:
  - a. Identities of the parties involved in the incident (if known);
  - b. Conduct allegedly constituting a policy violation;

- c. Date and location of the alleged incident (if known).
- B. Sufficient time for each party to prepare a response before any initial interview.
- C. Explanation of each party's right to an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may participate during the grievance process, subject to limitations established by HHCI. See page 18 for more information about advisors.
- D. Explanation of each party's right to inspect and review all evidence gathered during the investigation.
- E. Reference to the sections of this policy and HHCI's Student Code of Conduct which prohibit knowingly making false statements or knowingly submitting false information during the grievance process.
- F. Statement that the respondent is presumed not to be responsible for the alleged conduct unless and until a determination of responsibility is final.
- G. Statement that a determination of responsibility will be made at the conclusion of the grievance process.
- H. Provide a copy of HHCI's Policy on Sexual Misconduct & Sexual Harassment, which outlines the grievance process utilized to address alleged incidents of sexual harassment under Title IX.
- I. List of on-campus and off-campus support resources for complainants.

If, during the course of the investigation, HHCI decides to investigate allegations about the complainant or respondent that are not included in the initial notice provided to the parties, HHCI will provide written notice of the additional allegations to the parties whose identities are known.

## II. Investigation of Formal Complaints

HHCI is obligated to investigate formal complaints of sexual harassment. HHCI will complete the Title IX investigation within thirty (30) days. HHCI will inform the parties of the name and title of the assigned investigator in the written notices of investigative interview issued to the parties.

Generally, the Title IX Coordinator will also act as the Title IX investigator. However, in the event of conflict of interest or otherwise deemed necessary, HHCI may use external Title IX investigators.

## Role of HHCI & the Parties

During the investigation, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on HHCI and not on the parties.

Both parties are provided with an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence during the grievance process. HHCI will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

HHCI is prohibited from accessing, considering, disclosing, or otherwise using a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless HHCI obtains the party's voluntary, written consent to do so for the grievance process outlined in this policy.

## Participation of the Parties in the Investigation Process

HHCI will provide written notice to a party who is invited and expected to participate in any investigative interviews, hearings, or other meetings. This written notice will include the date, time, location, names of participants, and purpose of the meeting five and be provided not less than (5) days prior to the meeting, providing the party with sufficient time to prepare.

Parties may not attend interviews of any other party or witness or any meeting or hearing related to the investigation, unless invited and expected to participate by HHCI.

Prior to completion of the investigative report at the conclusion of the investigation, all parties have the opportunity to have not more than one representative present during any grievance proceeding, including the opportunity to be accompanied to any grievance-related meeting or proceeding by an advisor of their choice, who may be an attorney. A party may only be accompanied by their advisor during the live hearing. HHCI does not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding, including investigative interviews. However, HHCI reserves the right to establish restrictions regarding the extent to which the advisor may participate in the proceedings, which will apply equally to both parties. For more information about rights to an advisor, see page 18 of this policy.

All parties and their advisors will be given an equal opportunity to inspect and review all evidence gathered during the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which HHCI does not intend to rely in reaching a determination regarding responsibility as well as inculpatory and exculpatory evidence,



regardless of the source. The evidence subject to inspection and review will be provided either in electronic format or hard copy to the parties and their advisors, if any. The parties will have 10 (ten) days to submit a written response regarding the investigation evidence. The investigator will consider the parties' responses prior to completion of the investigative report.

HHCI may redact confidential portions of the investigation file or require the parties and their advisors to execute nondisclosure agreements to preserve the confidentiality of confidential information prior to release of the investigation file to the parties and their advisors.

All of the evidence which was provided to the parties for inspection and review will be made available at any hearing related to the formal complaint to provide each party the equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The parties may submit any additional evidence prior to the investigator finalizing the investigative report with a copy provided to the other party and their advisor.

#### Investigative Report

The Title IX investigator will create an investigative report that fairly summarizes relevant evidence.

Upon completion, investigator will send the investigative report to each party and the party's advisor, if any, at least ten (10) days prior to a scheduled hearing, in electronic format or hard copy. Upon review, the parties may submit a written response to the decision-maker not less than five (5) days prior to the scheduled hearing, with a copy to the other party and their advisor. The other party may reply to the written response prior to or during the scheduled hearing.

The investigator may include recommended findings or conclusions in the investigative report, but the decision-maker is under an independent obligation to objectively evaluate relevant evidence in making a determination.

### III. Hearing Process

Live hearings are a mandatory part of the Title IX grievance process. A single hearing officer or panel of hearing officers will act as the decision-maker(s) at HHCI Title IX hearings and must not be the same person as the Title IX Coordinator or investigator. HHCI will provide specific procedural rules for the live hearing to the parties and their advisors at least 10 (ten) days prior to the scheduled hearing.

Live hearings may be conducted with all parties physically present in the same geographic location. In this instance, at the request of either party, HHCI will arrange for the live hearing to

occur with the parties located in separate rooms with technology enabling the decision-maker(s) and the parties to simultaneously see and hear the part or witness answering the questions.

HHCI also reserves the right to require or permit any or all parties, witnesses and other participants to appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other.

HHCI will create an audio recording, audiovisual recording, or transcript of any live hearing and make it available to the parties for inspection and review.

Both parties have the right to present relevant fact and expert witnesses as well as inculpatory and exculpatory evidence at the hearing. Any evidence not included in the investigation file should be provided to the decision-maker and the other party and their advisor no less than five (5) days prior to the hearing.

#### Cross-Examination

During the live hearing, the decision-maker will permit each party's advisor to ask the other party and any witnesses any relevant questions and follow-up questions, including questions which challenge credibility.

Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor, and cross-examination may never be conducted by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless: 1.) such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or 2.) if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) may not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the decision-maker(s) may not draw an inference about the determination regarding responsibility based solely on a party's or witnesses' absence from a live hearing or refusal to answer cross-examination or other questions.

## Hearings & Advisors

Apart from the advisor's role in cross-examination, the HHCI reserves the right to restrict the extent to which advisors may participate in the proceedings.

If a party does not have an advisor present at the live hearing, HHCI will provide, without fee or charge to that party, an advisor of HHCI's choice to conduct cross-examination on behalf of that party. The advisor may be, but is not required to be, an attorney.

HHCI will include details regarding the role of the advisors in the hearing procedural rules provided to the parties at least five (5) days prior to the scheduled hearing.

### IV. Determination Regarding Responsibility

Following the live hearing, the decision-maker(s) will issue a written determination. To reach the determination, the decision-maker(s) will apply the preponderance of the evidence standard of evidence, as defined on page 14 of this policy.

The decision-maker(s) will issue the written determination to the parties simultaneously generally no more than ten (10) days after the conclusion of the live hearing. Copies will be sent to the parties and their advisors by email, certified mail, or overnight delivery service such as Federal Express, with receipt of acknowledgement.

The written determination will include the following information:

- A. Identification of the allegations potentially constituting sexual harassment, as defined on pages 8-12 of this policy;
- B. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of HHCI's Student Code of Conduct and/or this policy to the facts;
- E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and whether remedies designed to restore or preserve equal access to HHCI education program or activity will be provided by HHCI to the complainant; and
- F. HHCI's procedures and permissible bases for the complainant and respondent to appeal.

The determination is final either:

1. On the date HHCI provides the parties with the written determination of an appeal, if an appeal was filed; or
2. The date for filing an appeal expires without an appeal having been filed.

## V. Appeals

Either complainant or respondent may file a written notice of appeal of a determination of dismissal of a formal complaint within 5 (five) days after receiving the written determination or notice of dismissal. The notice of appeal must be delivered to the Title IX Coordinator within such 5-day period by email, personal delivery, certified mail or overnight delivery service.

A party may appeal from a) determination regarding responsibility, and b) HHCI's dismissal of a formal complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the process;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the process; and
- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the process.

In the event that a party files an appeal, the appeal decision-maker(s) generally will be the HHCI President. The appeal decision-maker will be free of bias as well as conflict of interest and will not be the Title IX Coordinator, investigator involved in the investigation, or decision-maker who reached the determination regarding responsibility or dismissal. The appeal decision-maker will have received required training under Title IX.

HHCI will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties, including a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The appealing party must submit a statement to the appeal decision-maker in support of the appeal within 10 (ten) days of filing the notice of appeal with a copy to the other party and their advisor. Although the other party is not obligated to respond to the appealing party, should the other party wish to respond, the other party must submit a written response to the statement

filed by the appealing party to the appeal decision-maker within 10 (ten) days of receipt of the appealing party's statement with a copy to the other party and their advisor.

No oral arguments will be held on the appeal unless so directed by the appeal decision-maker, in which case both parties' advisors will be given an equal opportunity to present oral arguments.

The appeal decision-maker will issue a written decision simultaneously to both parties, describing the result and the rationale of the decision generally within 10 (ten) days of receiving the final written statements from the parties.

## VI. Informal Resolutions

At any time prior to reaching a determination regarding responsibility, HHCI offers complainants and respondents informal resolution options such as mediation, restorative justice, or other forms of alternative dispute resolution, which do not involve or require a full investigator and adjudication (hearing process).

Informal resolution may include mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted preventive educational and training programs, or providing remedies for the individual harmed by the offense. Informal resolution may also include options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively. Informal resolution may be appropriate for responding to third party reports. Steps taken to encourage informal resolution and agreements reached through informal resolution will be documented by the Title IX Coordinator.

In order for HHCI to proceed with informal resolution options, the HHCI will:

- A. Provide the parties with a written notice disclosing the following:
  - i. The allegations;
  - ii. The requirements of the informal resolution process, including the circumstances under which the informal resolution process would preclude the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
  - iii. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

B. Obtain voluntary, written consent from the parties to the informal resolution process

HHCI will provide the parties with the specific guidelines corresponding to the various informal resolution options prior to the parties signing a written consent to the informal resolution process.

HHCI is prohibited from offering informal resolution options in cases which involve a HHCI employee's sexual harassment of a student.

HHCI is prohibited from requiring as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment as outlined in this policy. Additionally, HHCI cannot require the parties to participate in an informal resolution process and cannot offer an informal resolution process unless a formal complaint under Title IX or a complaint/grievance under the HHCI School Catalogue has been filed.

### Recordkeeping

The office of the Title IX Coordinator is responsible for maintain records relating to sexual harassment and sexual misconduct reports, investigations, and resolutions. HHCI will maintain for a period of seven years the following records:

- A. Each sexual harassment investigation, including any determination regarding responsibility, the audio recording, audiovisual recording, or transcript of the hearing, any disciplinary sanctions imposed on the respondent, as well as any remedies provided to the complainant designed to restore or preserve equal access to the HHCI's education program or activity;
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators. HHCI will make these training materials publicly available on its website at:

For each response to a report or formal complaint of sexual harassment, HHCI will create and maintain for a period of seven years, records of any actions, including any supportive measures taken. In each instance, HHCI will document the basis for its conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to HHCI's education program or activity. If HHCI does not provide a complainant

with supportive measures, then HHCI will document the reasons why such a response was not clearly unreasonable in light of the circumstances.

## Confidential Resources, Medical Services, Counseling Services

### **Crisis Text Link**

<https://www.crisistextline.org/>

### **National Sexual Assault Hotline**

- [Online Chat](#)
- 800-656-HOPE (4673)

### **National Sexual Violence Resource Center**

<https://www.nsvrc.org/organizations>

### **New Hampshire Coalition Against Domestic and Sexual Violence**

<https://www.nhcadsv.org/>

- Information on Sexual Assault Centers  
[https://www.nhcadsv.org/crisis\\_centers.cfm](https://www.nhcadsv.org/crisis_centers.cfm)
- Contact email: [info@nhcadsc.org](mailto:info@nhcadsc.org)
- Telephone: 800-277-5570

### **RAINN (Rape, Abuse and Incest National Network)**

<https://rainn.org/>