

## Definitions

“**Advisor**” means Advisor to the Student Sexual Misconduct Board. This person is appointed by the Dean of Student Affairs.

“**Board Chair**” means the Chair of the Student Sexual Misconduct Board. The Chair is the Dean of Student Affairs or the Dean’s designee.

“**Clery Act**” means the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f); 34 C.F.R., Part 668.46.

“**Complainant**” means the individual who alleges that Sexual Misconduct or Gender Based Violence has been committed against themselves or against another individual.

“**Effective Consent**” means words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective Consent cannot be gained by Force, by ignoring or acting in spite of the objections of another, or by taking advantage of the Incapacitation of another, where the Respondent knows or reasonably should have known of such Incapacitation. The use of alcohol or other drugs will never function to excuse behavior that violates this Policy. Effective Consent is also absent when the activity in question exceeds the scope of Effective Consent previously given. In addition, certain states have designated a minimum age under which a person cannot give Effective Consent.

“**Expert Witness**” means any individual who has expertise, training or special knowledge that is relevant to the specific details of a Sexual Misconduct or Gender Based Violence case.

“**FERPA**” means the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232(g); 34 C.F.R. Part 99.

“**Final Outcome Letter**” means the letter issued by the Sexual Misconduct Panel stating its decision and setting forth: the name of the Respondent; the violation(s) of this Policy for which the Respondent was found responsible, if any; and the sanction imposed, if any.

“**Force**” means physical force, violence, threat, intimidation or coercion.

“**Formal Complaint**” means the document prepared by the Advisor, and signed by the Complainant, that sets forth the name of the Respondent, and the date, location and nature of the alleged Sexual Misconduct or Gender Based Violence.

“**Gender Based Violence**” is a broad term encompassing “Dating Violence,” “Domestic Violence,” and “Stalking.” Gender Based Violence can occur between strangers or acquaintances, including people involved in both long term and brief intimate partnerships. Gender Based Violence can be committed by someone of any gender, and it can occur between people of the same or different sex.

**“Dating Violence”** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual abuse, physical abuse, emotional violence or the threat of such violence and does not include acts that meet the definition of “Domestic Violence.”

**“Domestic Violence”** as defined by Maine law to mean felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, 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, by a person similarly situated to a spouse of the victim under the domestic law of Maine 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 Maine.

**“Stalking”** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. Examples of stalking include: unwanted, intrusive, and frightening communications by phone, mail, and/or email; repeatedly leaving or sending unwanted items such as gifts; following or waiting for a person at places such as home, school or work; making direct or indirect threats of harm to a person, or the person’s children, relatives, friends or pets; damaging or threatening to damage property; harassment through the internet or social media; and posting information or spreading rumors about a person.

**“Incapacitation”** means the physical and/or mental inability to make informed, rational judgments. States of Incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol [or other drug] is involved, Incapacitation is determined by how the alcohol [or other drug] consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make informed judgments.

**“Investigator”** means the external, neutral fact-finder, who, during the course of a Sexual Misconduct or Gender Based Violence investigation, typically conducts interviews with the Complainant, the Respondent, and relevant third-party Witnesses and completes the Investigative Report. The Investigator decides, based on their investigation, whether there is a substantial basis to initiate a proceeding pursuant to this Policy.

**“Investigative Report”** means the report, submitted by the Investigator to the Advisor, the Deputy Title IX Coordinator for Students, the Dean of Student Affairs, the Complainant and the Respondent and, if applicable, the Sexual Misconduct Panel. The report generally includes summaries of all interviews, copies of all other evidence, and a detailed written analysis of the events in question.

**“Respondent”** means the individual student who is alleged to have committed one or more acts of Sexual Misconduct or Gender Based Violence.

**“Responsible Employee”** means any Bowdoin employee: who has the authority to take action to redress Sexual Misconduct or Gender Based Violence; who has been given the duty of reporting incidents of Sexual Misconduct or Gender Based Violence by students to the Title IX Coordinators or other appropriate school designee; or whom a student could reasonably believe has this authority or duty. This includes but is not limited to faculty, coaches, residential life staff, and deans.

**“Sexual Misconduct”** is a broad term encompassing “Sexual Exploitation,” “Sexual Harassment,” “Non-Consensual Sexual Contact,” and “Non-Consensual Sexual Intercourse,” as defined in this Policy. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate sexual relationship. Sexual Misconduct can be committed by someone of any gender, and it can occur between people of the same or different sex.

**“Non-Consensual Sexual Contact”** means Sexual Contact that occurs without Effective Consent.

**“Non-Consensual Sexual Intercourse”** means Sexual Intercourse that occurs without Effective Consent.

**“Sexual Contact”** means the deliberate touching of a person’s intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas), or using Force to cause a person to touch their own or another person’s intimate parts.

**“Sexual Exploitation”** means taking sexual advantage of another person without Effective Consent, and includes, without limitation: causing or attempting to cause the Incapacitation of another person in order to gain a sexual advantage over such other person; recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person; allowing third parties to observe private sexual acts; engaging in voyeurism; and/or knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection.

**“Sexual Harassment”** means unwelcome conduct of a sexual nature. Where sexual harassment is sufficiently severe or pervasive that it substantially interferes with a student’s College employment, academic performance, participation in College programs or activities, or living, learning or working environment, the sexual harassment creates a hostile environment in violation of Title IX and this Policy.

Sexual Harassment may include, for example, unwelcome physical contact; sexually explicit comments in person or via phone, letter, note, gift, text message, email or other electronic medium; sexual advances; requests for sexual favors; unwelcome invitations to engage in sexual activity; unwelcome commentary about an individual’s body or sexual activities; threatening to engage in an unwelcome sexual act with another person; engaging in indecent exposure; and stalking or cyber stalking. A single instance of

unwelcome conduct of a sexual nature may constitute Sexual Harassment if it is sufficiently serious.

Title IX and this Policy also prohibit gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

**“Sexual Intercourse”** means penetration (anal, oral or vaginal) by a penis, tongue, finger or an inanimate object.

**“Student Sexual Misconduct Board”** means the group of students, faculty and staff from which the Sexual Misconduct Panel is selected. The Dean of Student Affairs or the Dean’s designee serves as its Chair. Student and faculty members will be appointed from current members of the Judicial Board. The Board Chair and Advisor shall ensure that all Board members receive annual training that draws on professional and expert resources and focuses specifically on issues related to Sexual Misconduct and Gender Based Violence.

**“Sexual Misconduct Panel”** means the panel convened by the Board Chair to consider and decide complaints brought under this Policy. The panel is made up of members of the Student Sexual Misconduct Board and shall include one student, one faculty member and the Dean of Student Affairs, or the Dean’s designee, who will serve as the presiding chair. If the Dean of Student Affairs or the Dean’s designee is unavailable, the President shall select the Panel members and designate a Board member to preside over the proceedings.

**“Witness”** means any individual who can attest first-hand to the specific details of an alleged Sexual Misconduct or Gender Based Violence case.