

Sexual Harassment, Sexual Misconduct,  
Domestic Violence, Dating Violence and Stalking  
Policy & Procedures

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LANDMARK  
COLLEGE



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## Notice of Nondiscrimination

Landmark College does not discriminate on the basis of sex in its education programs and activities, and Title IX of the Education Amendments Act of 1972, as amended (“Title IX”), as well as applicable state law, requires that it not discriminate in such a manner. Prohibited sex discrimination includes sexual harassment and sexual misconduct as outlined in this policy. Inquiries concerning the application of Title IX may be referred to the College’s Title IX coordinator (see below) or to the United States Department of Education Office for Civil Rights. The OCR Region I office’s contact information is: Office for Civil Rights, Boston Office, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921, Telephone: 617-289-0111, Facsimile: (617) 289-0150, Email: OCR.Boston@ed.gov).

## Title IX Coordinator

The Vice President for Student Affairs is the designated Title IX Coordinator for Landmark College, and is responsible for coordinating the College’s efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator’s core responsibilities include overseeing the school’s response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. To accomplish this, subject to the exemption for confidential employees discussed below, the Title IX Coordinator must be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. The Title IX Coordinator is available to meet with students, employees or third parties regarding Title IX-related issues, such as issues related to the College’s compliance with Title IX, response to Title IX reports or complaints, related grievance procedures, relevant patterns of conduct, or related education and prevention programs. The contact information for the Landmark College Title IX Coordinator is:

Michael Luciani, Vice President for Student Affairs  
Office of Student Affairs, Strauch Family Student Center  
Landmark College  
1 River Rd South  
Putney, Vermont 05346  
(802) 387-6713  
mluciani@landmark.edu

## General Definitions

The definitions of sexual assault, domestic violence, dating violence and stalking used in this policy are consistent with the Clery Act, as amended effective 2014.

In its primary prevention and awareness programs for incoming students and new employees, and its ongoing prevention and awareness programs for students and employees, Landmark College includes the definitions of sexual assault, the definition of consent in reference to sexual activity, and the definitions of domestic violence, dating violence and stalking that are used by Vermont criminal laws.

However, the College utilizes its own definitions of these prohibited behaviors for purposes of this policy that are consistent with the Clery Act, as amended effective 2014, and determines responsibility for violations of College policy through its own procedures and standards of proof (that is, by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

### *Complainant*

For purposes of this policy, a complainant is usually a student, employee, or third party involved in some way in an academic, athletic, extracurricular or residential program of the College (“covered third party”) who has allegedly been subjected to conduct in violation of this policy by a student or non-employee respondent. In some cases (such as, for example, cases in which a student, employee, or covered third party involved in an alleged incident of sexual harassment, sexual misconduct, domestic violence, dating violence or stalking does not wish to participate in the process but the College decides that the alleged misconduct needs to be investigated and addressed), the College may move forward with an investigation and/or related disciplinary proceedings. In such cases, the College may extend the full rights of a complainant as defined in this policy to affected parties as deemed appropriate by the College. For ease of reference and consistency, the term “complainant” is used hereafter in this policy to refer to a person who believes that he or she has been subjected to sexual harassment, sexual misconduct, domestic violence, dating violence or stalking, or who is believed by another to have been subjected to such conduct.

### *Respondent*

For purposes of this policy, a respondent is an individual (student, faculty, staff, or third party over whom the College has some form of jurisdiction) reported to have violated the College’s Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy.

### *Retaliation*

Retaliation against an individual for reporting, in good faith, unwelcome conduct of a sexual nature, sexual harassment, sexual misconduct, domestic violence, dating violence or stalking, or for cooperating in the investigation of a complaint of such conduct, violates this policy and may be unlawful. Retaliation includes, but is not limited to, adverse actions that have a substantial adverse effect on the working or educational environment of any individual involved in the complaint or an investigation that is motivated by such involvement, such as:

- intimidation,
- reprisal,
- ostracism,
- actions altering the person's assignments, assessment of his or her work, or his/her academic environment,
- threats,
- coercion, or
- otherwise discriminating against any individual for exercising his or her rights or responsibilities under this policy

Any person who believes that he or she has been subjected to such retaliation should follow the complaint resolution procedures outlined in this policy. The College will take strong responsive action if it finds that retaliation in violation of this policy has occurred.

## Sexual Harassment Policy

### *The Definition of Sexual Harassment*

It is against the policies of Landmark College, and may also be illegal under state and federal law, for any student or employee, male or female, to sexually harass another student, a College employee, or a covered third party. Landmark College is committed to providing a campus free from such conduct. Landmark encourages members of the College community and covered third parties to report unwelcome conduct of a sexual nature so that it can investigate reports appropriately through the procedures outlined below. If the College determines a respondent's conduct is sufficiently serious—that is, sufficiently severe or pervasive—to deny or limit a student's ability to participate in or benefit from the College's program based on sex and thereby creates a hostile environment, it will take prompt, appropriate and effective action to eliminate the hostile environment, prevent its recurrence, and address its effects. In the employment context, the College will take prompt, appropriate remedial action if it determines that a sexually hostile environment has been created. The College may also choose to take remedial action in cases where conduct is deemed inappropriate, even if it does not rise to the level of sexual harassment as defined in this policy.

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to that conduct is made either explicitly or implicitly as a term or condition of employment or educational status;
2. submission to or rejection of such conduct by an individual is used as a component or the basis for employment or educational decisions affecting that individual; or
3. the conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working, shared living, or educational environment.

Examples of sexual harassment include, but are not limited to the following, when such acts or behavior come within one of the above definitions:

- either explicitly or implicitly conditioning any term of employment or educational decision on the provision of sexual favors;
- touching or grabbing any part of a student or employee's body after that person has indicated, or it is known or should be known that such physical contact is unwelcome;
- continuing to ask a student or employee to socialize on or off-campus when that person has indicated he or she is not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters if it is known or should be known that the behavior is unwelcome;

- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliating in any way against anyone who has filed or supported a complaint of sexual harassment (e.g. ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's educational, shared living, or work environment, etc.);
- communicating derogatory or provoking remarks about or relating to a student or employee's sex, sexual orientation or gender identity;
- directing harassing acts or behavior against a person on the basis of his or her sex, sexual orientation or gender identity;
- off-campus conduct which falls within the above definition and affects a person's on-campus educational, shared living, or work environment.

Sexual harassment prohibited by this policy may occur regardless of the sex, sexual orientation or gender identity of any individual involved.

Landmark College recognizes that the protection of free and open speech and the open exchange of ideas are important to any academic community. This recognition is therefore an important element in the "reasonable person" standard used in judging whether sexual harassment has occurred. This policy is meant neither to proscribe nor to inhibit discussion, in or out of the classroom, of complex, controversial or sensitive matters, when in the judgment of a reasonable person they arise appropriately and with respect for the dignity of others. Landmark College also recognizes, however, that verbal conduct can be used specifically to intimidate or coerce and to inhibit genuine discourse, free inquiry and learning. Such abuses are unacceptable. If someone believes that another's speech or writing is offensive, wrong or hurtful, he or she is encouraged to express that judgment in the exercise of his or her own free speech or to seek redress under the noted procedure(s) when appropriate.

## **Sexual Misconduct Policy**

As an educational institution, Landmark College is committed to promoting, through educational and consciousness-raising activities (including the distribution of the following policy), a campus environment where sexual misconduct is recognized as wholly intolerable, and where victims of sexual misconduct are provided with avenues of support and redress as appropriate. In accordance with this commitment, the College has developed the following policy on sexual misconduct. Other educational and consciousness-raising activities are conducted by the College's Student Affairs Office.

The College is committed to take action, and may be required to take action, if it learns of potential sexual misconduct, even if the person subjected to such misconduct does not wish to formally file a complaint.



The College prohibits a broad range of inappropriate sexualized activity through this sexual misconduct policy. The prohibitions of this policy apply regardless of the sex, sexual orientation or gender identity of any involved individual.

### *Sexual Assault*

Sexual violence is one type of prohibited sexual misconduct. Committing sexual assault upon another person, either male or female, is against the law and violates College policies. Sexual assault may be either rape, fondling without consent, incest, or statutory rape, as defined by the Clery Act and below.

- **Rape** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent (as defined below) of the victim, including instances where the victim is incapable of giving consent because of his/her temporary or permanent mental incapacity.
- **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in the applicable jurisdiction.
- **Statutory rape** is sexual intercourse with a person who is under the statutory age of consent in the applicable jurisdiction. In the state of Vermont, the statutory age of consent is 16 years old.

For purposes of the College's Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy, **consent** is defined as follows:

- Consent is a voluntary agreement to engage in sexual activity, demonstrated by words or actions freely and actively given by each party, which a reasonable person would interpret as a willingness to participate in agreed-upon sexual conduct;
- Someone who is incapacitated cannot effectively consent (such as when a person is incapacitated by the use of drugs or alcohol, when a person is asleep or unconscious, or when a person has an intellectual or other disability that prevents the person from having the capacity to give consent);
- Past consent does not imply future consent;
- Silence or an absence of resistance does not imply consent;
- Consent to engage in sexual activity with one person does not imply to consent to engage in sexual activity with another;
- Consent can be withdrawn at any time; and
- Coercion, force or threat of either, or placing the other person in fear that any person will suffer imminent bodily injury, invalidates consent.

The College will use an objective standard when determining incapacitation-related questions; that is, a respondent will be found responsible for sexual assault when the College determines that the respondent knew, or reasonably should have known based on an objective standard, that the other person was unable to effectively give or withhold consent because they were incapacitated:

1. By the consumption of drugs, alcohol, or other intoxicants; or
2. Because the other person was subject to a physical or mental incapacity such as sleep or unconsciousness.

It is the responsibility of those who initiate and/or engage in sexual activity to be clear that informed, voluntary consent is given before proceeding with further sexual activity.

It should be noted that ignorance of the policy noted above, or the intoxication of the respondent, will not (particularly given the College's objective standard) be considered an excuse for violating this policy.

### *Other Sexual Misconduct*

The College also prohibits through this policy other forms of sexual misconduct, such as (but not limited to) video recording or photographing of sexual acts of another member of the College community without the consent of a person involved, or engaging in unwelcome physical touching of a sexual nature that does not meet the definitions of sexual violence or sexual harassment described above.

To understand how to file a complaint of sexual misconduct at Landmark College, please see the section below on Complaint Procedures for Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence and Stalking.

### *Other Policy Violations*

The College's primary goals when responding to complaints of sexual misconduct are to promote safety, and to address that misconduct and prevent it from recurring. An individual should not hesitate to report sexual misconduct due to a concern that the investigation process may indicate that he or she was under the influence of alcohol or drugs at the time of the incident. Violations of other College policies will be handled separately from sexual misconduct complaints, and the relatively minor sanctions that may result from a violation of other College policies under the circumstances should not dissuade an individual from reporting relatively serious incidents of sexual misconduct. The use of alcohol or drugs never makes the complainant at fault for sexual misconduct.

## **College Policy on Domestic Violence, Dating Violence and Stalking**

Landmark College prohibits conduct by students, faculty or staff that affects other students, faculty, staff or covered third parties, and that constitutes domestic violence, dating violence or stalking, as defined below. While this policy incorporates by reference definitions of domestic violence, dating violence and stalking used in the criminal law, the College determines responsibility for such conduct through its own procedures and standard of proof (that is, by a preponderance of the evidence), not through the procedures or standards of proof employed in the criminal justice system.

### *Domestic Violence*

Domestic violence is violence committed—

- a. By a current or former spouse or intimate partner of the person subjected to the violence;
- b. By a person with whom the person subjected to the violence shares a child in common;

- c. By a person who is cohabitating with, or has cohabitated with, the person subjected to the violence as a spouse or intimate partner;
- d. By a person similarly situated to a spouse of the person subjected to the violence under the domestic or family violence laws of the jurisdiction in which the violence occurred, or
- e. By any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.

As a matter of Landmark College policy, the College strictly prohibits conduct that would constitute domestic violence as defined above. The College encourages complainants who believe they are being or have been subjected to such conduct, and others with knowledge of such conduct, to report the conduct to the College through the procedures described below, and to seek the support of the College and/or external resources identified in this policy.

### *Dating Violence*

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 person subjected to the violence. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse, if involving individuals who are or have been dating as defined here.

Dating violence does not include acts covered under the definition of domestic violence stated above.

As a matter of Landmark College policy, the College strictly prohibits conduct that would constitute dating violence as defined above. The College encourages individuals who believe they are being or have been subjected to such conduct, and others with knowledge of such conduct, to report the conduct to the College through the procedures described below, and to seek the support of the College and/or external resources identified in this policy.

### *Stalking*

"Stalking" is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

1. Fear for the person's safety or the safety of others; or
2. Suffer substantial emotional distress.

For the purposes of this definition—

1. **Course of conduct** means two or more acts, including, but not limited to, acts in which the alleged 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.

2. **Reasonable person** means a reasonable person under similar circumstances and with similar identities to the person subjected to the stalking.
3. **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Examples of stalking behaviors or activities include, but are not limited to the following, if they occur in the context of stalking as defined above:

1. Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, written letters, gifts, or any other communications that are unwelcome.
2. Use of online, electronic or digital technologies in connection with such communication, including but not limited to:
  - a. Posting of pictures or text in chat rooms or on websites;
  - b. Sending unwanted/unsolicited e-mail or talk requests;
  - c. Posting private or public messages on Internet sites, social networks, and/or school bulletin boards;
  - d. Installing spyware on a person's computer;
  - e. Using Global Positioning Systems (GPS) or similar technology to monitor a person.
3. Pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person.
4. Surveillance or other types of observation including staring or "voyeurism"
5. Trespassing
6. Vandalism
7. Non-consensual touching
8. Direct verbal or physical threats
9. Gathering information about an individual from friends, family, or co-workers
10. Accessing private information through unauthorized means
11. Threats to harm self or others
12. Defamation and/or lying to others about the person, or
13. Using a third party or parties to accomplish any of the above.

As a matter of Landmark College policy, the College strictly prohibits stalking as defined above. The College encourages complainants who believe that they are being or have been subjected to such conduct, and others with knowledge of such conduct, to report the conduct to the College through the procedures described below, and to seek the support of the College and/or external resources identified in this policy.

## Reporting and Confidential Disclosures: Know the Options

The College understands that individuals who have concerns about sexual harassment, sexual misconduct, domestic violence, dating violence or stalking may look for assurances of confidentiality. The College encourages individuals who may have been subjected to these forms of misconduct and/or crime to talk to somebody about what happened, so they can get the support they need, and the College can respond appropriately. Different employees on campus have different abilities to maintain confidentiality about these issues.

### *Professional Counselors and Health Services Professionals as Confidential Resources*

At Landmark College, the professional counselors and health services staff respect and protect confidential communications with clients to the extent that they are able to do so under applicable law. This means that in most cases, these confidential resources will not inform anyone of such communications without a client's consent, and the College will not endeavor to take any action to take action in response to such communications. These professionals may have the responsibility to disclose otherwise-privileged information appropriately when they perceive an immediate and/or serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual assault of a person under age 18.

Individuals who wish to talk about sexual harassment, sexual misconduct, domestic violence, dating violence or stalking-related issues confidentially, with the understanding that the College will not take any action based on such confidential communications, are encouraged to contact one of these confidential resources.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, these confidential resources will not report Clery crimes they learn about through confidential communications for purposes of the College's compilation of campus crime statistics.

If an individual who makes a report insists that his or her name or other identifiable information not be revealed and the College is able to respect that request, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Even so, these confidential resources will still assist the individual in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to academic, living, transportation, and working or course situations or schedules, where requested and reasonably available.

An individual who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated. These confidential resources will provide the individual with assistance if the individual wishes to pursue those options.

Contact information for confidential resources is as follows:

Meg Spicer, Counselor & Sexual Respect Coordinator	(802) 387-6739
Jeff Huyett, Director of Health Services	(802) 387-6753
Liz Cooper, Staff Nurse	(802) 387-6302
Counseling Services	(802) 387-1636

### *Reporting to “Responsible Employees”*

A “responsible employee” is a College employee who has the authority to address sexual harassment, sexual misconduct, domestic violence, dating violence or stalking, who has a duty to report related incidents to the Title IX Coordinator or other College officials, or who a student could reasonably believe has this authority or duty. Responsible employees are respectful of a complainant’s wishes to the extent appropriate and are discreet, but they are not able to guarantee confidentiality. General inquiries or questions about the Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy and procedures may remain private, and the College will strive to protect the privacy of individuals to the extent it can while maintaining its obligations to uphold relevant policies and regulations and/or to take reasonable steps to promote the safety of members of the College community. Otherwise, responsible employees will report relevant details (such as the name of the complainant and respondent, any witnesses, and other relevant facts, such as the date, time and specific location of the alleged incident) to the Title IX Coordinator or other College officials. The College will then investigate the report and take reasonable steps designed to prevent recurrence of the behavior.

If a complainant discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College’s obligation to provide a safe, non-discriminatory environment for all students, faculty and staff. The Title IX Coordinator will in most cases determine whether the College needs to perform an investigation and/or take some other action in cases where a complainant would prefer complete confidentiality. If for some reason the Title IX Coordinator is not able or is not the appropriate person to make such a determination, the determination will be made by the Dean of Students or another appropriate person designated by the President.

If an individual who makes a report insists that his or her name or other identifiable information not be revealed and the College is able to respect that request, the individual must understand that the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

The College will protect the confidentiality of individuals allegedly subjected to sexual harassment, sexual misconduct, domestic violence, dating violence and/or stalking to the extent practicable in light of the need to do investigations and conduct disciplinary proceedings. Campus security authorities who become aware of Clery crimes will report them to the College’s Office of Public Safety so that they may be included in the College’s compilation of campus crime statistics. The College will not include the names of complainants or other identifying information in publicly-available reports that are compiled as required by the Clery Act.

### **Community Assistance and Resources for Victims of Sexual Misconduct, Domestic Violence, Dating Violence and/or Stalking**

The level of confidentiality that can be provided by confidential on-campus resources, and the obligations of non-confidential responsible employees, who are respectful but not necessarily confidential, are described immediately above.

### *Confidential On-Campus Resources*

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Meg Spicer, Counselor & Sexual Respect Coordinator	(802) 387-6739
Jeff Huyett, Director of Health Services	(802) 387- 6753
Liz Cooper, Staff Nurse	(802) 387-6302
Counseling Services	(802) 387-1636

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### *Respectful But Not Necessarily Confidential On-Campus Resources*

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Resident Deans	
Resident Assistants	
Academic Advisors	
Campus Security	(802) 387-6899
Kelly O’Ryan, Dean of Students	(802) 387-6362
Michael Luciani, Vice President for Student Affairs	(802) 387-6713

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### *Off-Campus Community Resources*

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Women's Freedom Center advocates@womensfreedomcenter.net	24 hour Hotline: (802) 254-6954 Business line: (802)-257-7364
Windham County Victim Advocate	(802) 257-2860
Brattleboro Memorial Hospital ER	(802) 257-8222
Brattleboro Health Center	(802) 258-3905
Windham County Sheriff	(802) 365-4949
Vermont State Police	(802) 722-4600

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## **Reporting and Grievance Procedures for Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence or Stalking Complaints**

The reporting and grievance procedure outlined below applies to sexual harassment, sexual misconduct, domestic violence, dating violence and/or stalking complaints filed by students, staff, faculty or covered third parties against other students, staff or faculty, or third parties over whom the College has some measure of control. Even where the College does not appear to have a measure of control over a third party who is believed to have engaged in or who is believed to be engaging in such behavior, the College encourages reporting so that the College can at least refer the complainant to supportive resources and discuss reasonably available accommodations and procedures for obtaining protection orders.

Complaints of sex discrimination by College students, staff or faculty that do not involve alleged sexual harassment, sexual misconduct, domestic violence, dating violence or stalking as defined in

this policy will be handled through the Vice President for Student Affairs Office (for students) and the Human Resource Office (for faculty & staff).

The procedures outlined below are designed to provide prompt, fair and impartial investigation and resolution of complaints of sexual harassment, sexual misconduct, domestic violence, dating violence and stalking. The College will provide written notice to complainants and respondents of the information stated herein by providing a paper copy of the policies, procedures, and support resources to complainants and respondents.

If any person affected by the College's investigation or adjudication of a complaint of sexual harassment, sexual misconduct, domestic violence, dating violence or stalking is concerned that another person involved in the investigation or adjudication (such as, for example, an investigator or Conduct Board member) may be biased against him or her or has a conflict of interest, the person should inform the Vice President for Student Affairs Office, the Human Resources Office (in faculty/staff cases) or the Title IX Coordinator of that concern as soon as possible. The responsible official will consider the concern and inform the parties of his/her decision as to whether an alternate will be named.

Any student, faculty or staff member who wishes to report a complaint of or concern about sexual harassment, sexual misconduct, domestic violence, dating violence or stalking is encouraged to contact the Vice President for Student Affairs (Title IX Coordinator), College security personnel, the Dean of Students, Resident Deans, Academic Advisors, Counselors, College Administrators, and/or local law enforcement officials.

In addition to (or instead of) the College's processes, any student or employee who wishes to report a complaint of sexual misconduct, domestic violence, dating violence or stalking may and should also pursue criminal charges with local, state, or federal law enforcement agencies including the Windham County Sheriff's Department or Vermont State Police. The Office of the Vice President for Student Affairs (Title IX Coordinator), Office of Security, the Office of the Dean of Students, Human Resources Office and Counseling /Health Services Office will offer to, and will upon request, assist students or employees in contacting law enforcement agencies and other agencies for these purposes. This action may be taken regardless of whether an individual chooses to file a complaint with the College. For his or her own part, a complainant may choose to notify such agencies with or without assistance from the College, or may choose not to notify such authorities.

Individuals who are being or who may have been subjected to domestic violence, dating violence or stalking may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from Vermont courts. The College will support complainants if they wish to have the College's assistance in making contact with law enforcement authorities and other external resources to seek such orders. The College will respect such orders to the extent applicable. In addition, the College can also impose no-contact conditions on students, employees and third parties over which it has some measure of control. The College will inform complainants of their options in this regard.

**Medical Care** - Whether or not you decide to pursue criminal charges or a complaint at the College, you are encouraged to immediately seek any necessary medical care after an incident of sexual misconduct, domestic violence or dating violence, and to seek help from appropriate law enforcement, medical or College personnel.



**Preservation of Evidence** - Even if you are unsure initially whether you will want to pursue criminal charges or seek a protection order, it is important to preserve all possible evidence in case you decide at some point to do so. Therefore, you should refrain from changing clothes, showering or otherwise changing your physical state after an incident, until after you have consulted with medical personnel about how to best preserve evidence. You should also consult with College officials, law enforcement officers or health care professionals regarding your ability to have evidence collected by a Sexual Assault Nurse Examiner (“SANE”). You should also endeavor to preserve other evidence that may be relevant to a case of sexual harassment, sexual misconduct, domestic violence or dating violence or stalking, such as text messages, email messages, other electronically stored information, and other physical evidence. If you have questions about how to do this, you should consult with College officials.

**Accommodations** - If you report sexual harassment, sexual misconduct, domestic violence, dating violence or stalking to College authorities, College personnel will work with you to determine whether alternative academic, transportation, working and/or living situations are reasonably available and necessary in your particular case. You do not have to file a formal complaint, participate in a disciplinary process, or file a criminal complaint in order to ask for such help from the College.

### *Informal Resolution of Complaints*

Students or covered third parties who believe they have been subjected to conduct covered under this policy may seek informal resolution of the issues without filing a formal complaint by contacting the Vice President for Student Affairs. At the discretion of the Vice President for Student Affairs, the consideration of a complaint under this section may be assigned to his or her designees. Informal complaints may be oral or written. In many instances, informal discussion and counseling can be useful in resolving perceived or actual instances of sexual harassment. Problems are sometimes easier to resolve when an informal atmosphere encourages people to identify the difficulty, talk it out, and agree on how to deal with it. Informal complaint resolution does not involve disciplinary proceedings against the alleged harasser.

If requested by the complaining party, the Vice President for Student Affairs (or designee) will assist in attempting to resolve the complaint informally. Such assistance may involve, for example, advising the complainant with respect to communicating with the respondent about the cessation of the behavior. Alternatively, the complainant may ask the Vice President for Student Affairs to meet with the alleged respondent, or to explore other possible resolutions. The Vice President for Student Affairs may enlist the help of other College personnel, such as deans, administrators or Human Resources personnel, in resolving an informal complaint, but only with the written permission of the complaining student.

Use of the informal procedures set forth in this section is not a prerequisite to initiating a formal complaint. Students seeking informal resolution have the right to end the informal process at any time and begin the formal complaint process.

Informal complaints should be raised as soon as possible, because the more time that elapses between alleged incidents of sexual harassment and the filing of an informal complaint, the more difficult it may be to resolve the complaint successfully.

## ***Filing a Formal Complaint of Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence or Stalking***

A student or covered third party may file a formal complaint of sexual harassment, sexual misconduct, domestic violence, dating violence or stalking by a student or a third party by contacting the Vice President for Student Affairs (or in the case of a complaint against the Vice President for Student Affairs, by contacting the President of the College, who will designate an alternate contact person). A student or employee may file a formal complaint of sexual harassment, sexual misconduct, domestic violence, dating violence or stalking by an employee or a third party by contacting the Vice President for Student Affairs (Title IX Coordinator), the Director of Human Resources (or in the case of a complaint against the Director of Human Resources, by contacting the President of the College, who will designate an alternate contact person). The Title IX Coordinator or designee will determine whether the Vice President for Student Affairs Office or the Human Resources Office will be the primary point of contact, and which office will conduct the investigation, depending on the nature of the case and his or her judgment as to which office is most appropriate.

After an initial discussion, the complainant will be asked to prepare (or describe to the Vice President for Student Affairs/Director of Human Resources or designee and sign) a written statement describing the complaint. The statement should include information such as the date and time of the alleged sexual harassment, sexual misconduct, domestic violence, dating violence or stalking, the name of the respondent, the circumstances of the alleged sexual harassment, sexual misconduct, domestic violence, dating violence or stalking, and the identity of any persons who may have knowledge or information regarding the circumstances.

The Dean/Director (or designee) will inform the respondent of the allegations, and in the absence of extraordinary circumstances, will give the respondent a copy of the written statement and any summary prepared in connection with the process. The respondent may submit a written response to the Dean/Director.

Respondents will be notified that taking any retaliatory action (directly or through others) which affects the learning, shared living, or working environment of any person involved in the investigation is prohibited by law and will also be considered a separate violation of College policy.

### ***Investigation***

The investigating office will conduct an appropriate investigation which may include interviews with the complainant, respondent, and other persons with information. Individuals conducting investigations and proceedings will receive training annually on the issues related to sexual harassment, sexual misconduct, domestic violence, dating violence and stalking, and how to conduct an investigation and/or hearing process that protects the safety of complainants and promotes accountability.

In a case where a criminal investigation or criminal proceeding may be underway for the same complaint, the College may choose to delay its investigation for a reasonably short period while police are gathering evidence. During this period, the College reserves the right to take interim measures to promote the safety and well-being of the complainant and the College community while the law enforcement agency's fact-gathering is in progress and thereafter. The College, after a

reasonable period and communication with law enforcement, will initiate or resume, and complete its own investigation.

If the complaint is not resolved by investigation, the Vice President for Student Affairs/Director of Human Resources (or designee) may recommend the convening of a College Conduct Board Hearing to consider the complaint.

### *Conduct Board Hearings in Cases Involving Student Respondents*

A student who is alleged to have violated the College's Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence and/or Stalking Policy may be required to appear at a College Conduct Board Hearing. The Vice President for Student Affairs, at his or her discretion, may modify these procedures as appropriate, including any time periods within which procedures should occur. Students found to have violated the College's sexual harassment, sexual misconduct, domestic violence, dating violence or stalking policy could be subject to the following disciplinary sanctions:

- educational requirements;
- formal disciplinary status;
- restrictions on on-campus activities;
- residential restrictions;
- expulsion from campus housing;
- suspension or expulsion from the College.

A College Conduct Board Hearing is convened by the Vice President for Student Affairs or his/her designee. Members of the Board may include the Director of Judicial Affairs, Faculty, Residential Life staff, and College staff. The charge of the Conduct Board is to determine if a violation of the College's Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence or Stalking Policy has occurred, and to recommend sanctions for students found in violation of these policies or standards to the Vice President for Student Affairs, who holds final approval of all Conduct Board recommendations.

Throughout the College's investigation and Conduct Board Hearing both the complainant and respondent will have equal opportunity to:

1. Present relevant material witnesses and other evidence.
2. Be afforded similar and timely access to any information that will be used at the hearing.
3. Attend an informational pre-hearing meeting to review the Conduct Board procedures and information submitted to the College.
4. Request a College Counselor, Academic Advisor or other College Official to be present in the hearing to provide individual support, help facilitate the student's understanding of the Conduct Board hearing process, and to assist the student in communicating his or her position. These support persons do not take part in College Conduct Board deliberations or decisions.
5. Have an advisor of their choice present at the hearing and any related meetings (such advisors may advise the complainant or respondent privately, but cannot act as speaking advocates at a hearing or meeting or otherwise address an investigator or board).
6. Ask questions during the hearing through the chair of the board (direct cross-examination of the complainant or respondent by the other party or his/her advisor will not be permitted).

7. Be separated by physical barriers or the use of technology from direct, in-person contact with the other party while participating in the hearing.
8. Access support resources on campus.

Failure of a respondent to cooperate in a College Conduct Board hearing may result in suspension or other sanction, and will not prevent the College from moving forward with its disciplinary process.

### ***Standard of Proof***

Like Landmark College's student disciplinary system in general, the process to address complaints of sexual harassment, sexual misconduct, domestic violence, dating violence or stalking uses the standard of proof of "a preponderance of the evidence" or "more likely than not". This means that for a finding of responsibility to be made, an administrative hearing officer or conduct board must conclude that there is more than a 50% likelihood that actions or behavior in violation of the policy at issue did occur.

### ***Disposition Without A Conduct Board/Dean's Sanction***

In cases where the facts are not in dispute, and a student respondent is prepared to accept responsibility for his/her actions, the College may offer the option of Disposition Without a Conduct Board, also called a Dean's Sanction. For a full description of this process, please see the policy under "formal Disciplinary Procedures".

### ***Notice of Outcome***

Following the hearing, the College will report its decision to the complainant and the respondent simultaneously and as soon as practicable, usually within one week of the hearing. The College will state in writing the findings which support its decision as to whether or not a policy violation occurred. A decision that a policy violation occurred may include recommendations for specific actions to be taken as a result of the decision. Any official record will be kept on file at the Student Affairs Office. If there is no appeal or review, the written recommendations will be implemented.

### ***Appeal Procedure for Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence or Stalking Decisions***

Within seven (7) calendar days of the College Conduct Board's written decision, the complainant or respondent may appeal the decision as to responsibility and/or the sanction to the President of the College (or designee) by delivering a written statement of appeal to the President and to the other party. The other party may be notified of any submitted appeal through the Vice President for Student Affairs or his or her designee. The other party may submit a written response to the appeal to the President within 5 working days of delivery of the statement of appeal. Both parties will be informed of any change to the results of a disciplinary process that occurs prior to the time that such results become final, and when such results become final. The decision of the President is final.

### ***Disciplinary Procedure for Cases Involving Employee Respondents and Others***

Disciplinary procedures for employees charged with violating the College's Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy are available from the Human Resources website. While the disciplinary procedures for dealing with such cases vary somewhat from those for cases involving student respondents, student and employee complainants

will in all cases be provided the procedural and substantive rights described above, with variations as necessary given the context.

## **Educational Programming**

The College will provide educational programming for students and employees addressing the issues of domestic violence, dating violence, sexual violence and stalking, which will include: 1) primary prevention and awareness programs for all incoming students and new employees; 2) safe and positive options for bystander intervention; 3) information on risk reduction to recognize warning signs of abusive behavior; and 4) ongoing prevention and awareness programs for students, faculty and staff who have responsibility for working with students.