

# **ANNUAL SECURITY AND FIRE SAFETY REPORT**



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# Part 1: Annual Campus Security Report

## Overview

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### New England Conservatory of Music – Mission Statement

New England Conservatory (NEC or the Conservatory) educates and trains musicians of all ages from around the world, drawing on the talent and deep reservoir of experience of our distinguished faculty. We are dedicated to inculcating the highest standards of excellence and nurturing individual artistic sensibility and creative growth. Understanding that music is one of the transcendent expressions of human civilization, NEC aspires to ensure it a central place in contemporary society.

### Core Values

We believe that the study of music builds human capacity, elevates the soul, and prepares our students for lives that enhance the public good.

We believe our students must have a supportive and collegial learning environment that maximizes the individual attention they receive from their teachers, and allows them to explore and develop their unique artistic personalities.

We believe in the critical importance of mutual support among faculty that encourages the highest standards of excellence and accommodates innovation, individual teaching philosophies, and a broad range of disciplines. We believe that we have a responsibility to reinforce and expand the position of music in society by educating the next generation of music leaders, incubating new work, and sharing our sublime art with the widest possible audience.

### Clery Act Overview

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (more commonly referred to as the “Clery Act”), codified at 20 USC 1092 (f) as a part of the Higher Education Act of 1965, is federal legislation requiring colleges and universities to disclose certain timely and annual information about campus crime and security policies. All public and private institutions of post-secondary education participating in federal student aid programs are subject to it. The Director of Facilities and Campus Security compiles the information presented in this report. The information is obtained from the following sources:

- Public Safety Department incident case reports
- Information supplied by NEC Campus Security Authorities
- Information supplied by the Office of Student Services
- Information supplied by the Boston Police Department
- Information supplied by the Northeastern University Police Department

All enrolled students and current employees are notified by e-mail of the report’s availability and copies are available from NEC Public Safety upon request.

Safety is a major concern for everyone on campus, and NEC strives to provide an ideal environment for learning, working, and living. NEC has instituted numerous policies and procedures to enhance security. Members of the NEC community have a responsibility to use the security procedures and services available, and must be accountable for their own well-being and for the welfare of others. NEC urges all members of the community to participate in maintaining safety by promptly reporting any suspicious circumstances, accidents, or criminal activity to NEC Public Safety at (617) 585-1777.

## Public Safety and Crime Reporting Procedures

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### Department Structure

The NEC Department of Public Safety is supported by contract security officers (commonly referred to as public safety officers or security officers). Public safety officers are assigned to patrol the campus by foot and are stationed at fixed posts located throughout the campus. NEC Public Safety is on duty 24 hours a day, 7 days a week, 365 days a year. All members of NEC Public Safety are trained in First Aid, CPR and AED use and are designated as first responders to all medical emergencies on campus.

NEC Public Safety maintains a close working relationship with the Boston Police Department and the Boston Fire Department. Security officers cannot make criminal arrests. The Boston Police Department will be called in to investigate any serious incident that may occur at NEC. Public safety officers do enforce NEC rules and regulations on campus, and every effort is made to enforce these rules and regulations equitably and professionally.

### Crime Reporting Procedures

NEC Public Safety is the central reporting hub for criminal offenses that occur at NEC. Community members are encouraged to report all crimes and safety-related incidents in a timely manner. Reporting incidents will aid in providing timely advisories to NEC, and is crucial to maintaining the well-being of our community.

To report an incident on campus, please contact Public Safety. If it is an emergency situation when police, fire, or EMS personnel are required, contact 911 immediately, and then contact the 24-hour public safety line so that emergency personnel can be directed to the proper location. Contact information is listed below.

- Public Safety Emergency Line (617) 585-1777 [monitored 24 hours a day, 7 days a week]
- Anonymous Tip Line (617) 585-1292

### Anonymous Reporting

NEC Public Safety recognizes the importance of allowing individuals reporting an incident to Public Safety to remain anonymous. In this effort, NEC Public Safety has instituted an anonymous reporting tip line. The phone number is 617-585-1292 or 1292 from any campus phone. All calls will remain confidential unless the individual caller states that they wish to be contacted.

Additionally, reports can be filed through a confidential, third-party reporting platform, [EthicsPoint](#).

### Email Tip Line

NEC Public Safety has also instituted an email tip line which will allow community members to provide information to Public Safety via their computers or smartphones. The address for the email tip line is: [tipline@necmusic.edu](mailto:tipline@necmusic.edu).

### Campus Security Authorities (CSAs)

Campus Security Authority (CSA) is a Clery-specific term that is comprised of individuals and organizations at New England Conservatory of Music where students can go to report criminal offenses. At the New England Conservatory of Music, the Campus Security Authorities include NEC Public Safety as well as any "official of an institution who has significant responsibility for student and campus activities, including but not limited to, student housing, student discipline and campus judicial proceedings." An official is defined as "any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution."

Federal law requires that if someone has significant responsibility for student and campus activities then he or she is a campus security authority. A designated campus security authority must report to the Public Safety or the Title IX Coordinator, as appropriate, of the existence of all known incidents so that the incidents can be recorded as

statistics under the Clery Act and, where appropriate, included in the Conservatory's Annual Security and Fire Safety Reports. The details of a report made to a Campus Security Authority will not be made public. Only the number of crimes occurring will be released. The reporting person's name will not be released. That information is not required for the report, but it will help ensure the crime is not counted twice.

Examples of the Campus Security Authorities at the New England Conservatory of Music include, but are not limited to:

- Director of Facilities and Campus Security
- Public Safety Officers
- Dean of Students
- Senior Associate Dean of Students
- Director of Residence Life and Housing
- Resident Assistants
- Provost

## **Building and Residential Hall Access and Surveillance**

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### **Building Access**

All NEC facilities require card access for entry unless otherwise posted. Where appropriate, buildings are staffed by security officers to enhance safety and security. Where buildings are not staffed at entrances, access is controlled by electronic card readers and can only be obtained by those with a currently activated NEC identification card. Any person who refuses to provide identification to a security officer upon request as a condition of entry to an NEC building and who subsequently enters, or who enters a building following a security officer's appropriate directive to refrain from doing so, will be subject to disciplinary action. No faculty, students, or staff are permitted to duplicate or lend access cards to anyone unless expressly instructed by an NEC personnel.

Facilities and campus security staff routinely monitor the safety of the campus in order to address areas of potential concern. Community members are encouraged to report any security-related concerns to Public Safety at (617) 585-1777.

### **Residential Hall Access**

For security reasons, exterior doors on the residence hall are equipped with a door access card system. A residential student may gain access to a residence hall by using the student's ID card. A student should never prop a door or place an obstructing object in any residence hall door that will cause it to remain ajar. Any student who copies or lends a key or an access card to anyone, props a door, or admits an unauthorized guest, will be subject to disciplinary action as determined by the Director of Residential Life and Housing.

There is one designated entrance and exit for the residence hall. Students who tamper with emergency exit only doors may be subject to the disciplinary process. Residents are urged to keep room doors closed and locked. Entrance into the residence hall is only permitted through the elevators with an ID card.

### **Surveillance Camera System**

NEC Public Safety maintains a series of surveillance cameras as a deterrence and to aid in the investigation of incidents which occur on campus. NEC has installed these cameras in several overt and covert locations on the campus. Cameras are never used in restrooms or dressing rooms, nor can they view into the windows of residence hall rooms. Taped surveillance information can be used by law enforcement, public safety, and residence life in the investigation and adjudication of incidents on campus.

### **Notice of Criminal Trespass Orders**

The New England Conservatory of Music, including all property outlined on the campus map, is private property.

Persons are permitted on this property at the discretion of the New England Conservatory of Music. The New England Conservatory of Music and those who have lawful control of said premises may revoke this permission at any time pursuant to Massachusetts General Law Chapter 266, Section 120 to preserve the safety of our community.

A *Notice of Criminal Trespass Order* allows NEC Public Safety staff to convey notice to anyone that due to their actions, they are not permitted on any NEC property. This area is identified on a map printed on the form. A copy of this notice may be provided to the Boston Police Department. Any request for a termination of the ban can be made in writing to the Director of Facilities and Campus Security after a period of six months.

## Timely Warnings and Emergency Notifications

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The Clery Act requires colleges and universities to issue *timely warnings* to the campus community regarding any Clery Act crime that is reported to campus security authorities (or to local law enforcement where local law enforcement informs NEC of the incident); occurs within the school's Clery geography; and is deemed to represent a serious or continuing threat to the NEC community. The Clery Act also requires colleges and universities to issue *emergency notifications* to the campus community upon confirmation of a significant emergency or dangerous situation occurring on campus and involving an immediate threat to the health or safety of employees or students. *Timely warnings* and *emergency notifications* are each discussed separately below.

### Timely Warnings

NEC, through the Public Safety Department, issues timely warnings concerning Clery Act crimes that occur within NEC's Clery geography, where those crimes pose an immediate, continuing, and ongoing threat to the safety of the campus community. The decision to issue a timely warning is made on a case-by-case basis in light of all known circumstances surrounding a crime, including factors such as the nature of the crime reported, whether there exists a continuing danger to the campus community, and the possible risk of compromising law enforcement efforts. A timely warning may not be issued if doing so would compromise efforts to assist a victim, contain the emergency, response to the emergency, mitigate the emergency.

The purpose of a timely warning is to notify the campus community of the incident and to provide information that may enable community members to protect themselves from similar incidents. Timely warnings will not include the names of victims.

Generally, timely warnings will be issued via email to students, faculty, and staff and through written notices posted at campus security stations. Additionally, the College may, in some circumstances, issue *Crime Alerts* via email when there is a pattern of crimes against persons or property that may not be categorized as Clery Act crimes. The Director of Facilities and Campus Safety and/or the Title IX Coordinator, or their designees, will make the determination in consultation with other offices, if a timely warning is required.

The Director of Facilities and Campus Safety, or his or her designee, is responsible for issuing timely warnings and crime alerts.

Anyone with information warranting a timely warning or campus alert should report the circumstances to NEC Public Safety by calling (617) 585-1777.

### Emergency Notifications

Public Safety receives information through offices and departments on campus, local municipal law enforcement, email, and/or text messages, and other media sources. If the Department confirms, based on information received from these sources, or any others, that there is an emergency or dangerous situation that poses an immediate threat to the health or safety of the NEC campus, NEC will, through Public Safety, without delay and taking into account the safety of the community, determine the content of the emergency notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities,

compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

In determining an appropriate communication, NEC will take into account several factors, including, but not limited to, the building or segment of the population threatened, the nature of the threat, and the credibility of the information received. The message will contain information regarding the event, as well as instructions as to what steps to take to enhance safety. The system may send notifications to the affected population in the form of email, voice message, text message, and/or social media. The information also may be posted on a publicly available webpage that is accessible to the larger community.

## Contact Information and Communication Channels

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### Contacting Public Safety

NEC Public Safety encourages anyone who is the victim or witness of a crime to promptly report the incident to Public Safety or to the Police.

All crimes occurring on campus should be reported to NEC Public Safety. If you should ever need to call NEC Public Safety, please provide the following information:

- Your name
- Location of the incident you are reporting
- A description of the scene and
- A description of any suspects involved in the incident

Remember if you witness an event which you consider “life threatening,” you should call **911**. If you call **911**, please contact Public Safety immediately afterward in the event there is a delay with the emergency response to the campus.

#### ***PUBLIC SAFETY CONTACT NUMBERS***

Public Safety – <i>Emergencies</i>	(617) 585-1777	1777 from campus phone
Boston Police, Fire and EMS	911	9-911
Public Safety - <i>Anonymous Tip Line</i>	(617) 585-1292	1292 from campus phone
Director of Facilities and Campus Safety	(617) 585-1181	1181 from campus phone

### Emergency Blue Light Phones

Four emergency phones with blue lights are located on campus: one at 33 Gainsborough Street, one at 241 St. Botolph Street, the public alley loading dock area and one on the corner of St. Botolph Street and Gainsborough Street. Please refer to Appendix X for further details.

### Emergency Notification System

New England Conservatory of Music has partnered with OmniAlert, for our emergency notification system. OmniAlert is capable of sending users text and email messages in the event of campus emergencies. Students, faculty and staff are automatically enrolled in the OmniAlert system.

### Daily Crime Log

The Daily Crime Log is maintained as a component of the Clery Act which requires NEC to document all crimes reported to NEC Public Safety. Public Safety updates the daily crime log each business day with information concerning reports of crimes made to the Department the prior day. Reports received on weekends or NEC holidays are recorded in the log on the next business day. Entries made within the last 60 days are updated as

information becomes available. Portions of the log older than 60 days will be made available to the public upon receipt of written request.

Information contained in the Daily Crime Log includes the nature of the incident reported, date the incident occurred, date the incident was reported to NEC Public Safety, the Public Safety case report number, the general location of the incident, the disposition of the complaint (if known), and any outside agency assistance (e.g., Boston Police Department, Northeastern Police, Boston Fire, and Boston Emergency Management Services).

The Daily Crime Log is maintained at the office of the Director of Facilities and Campus Safety, and is available for public inspection upon written request.

#### Notification of Results

Upon written request and subject to compliance with federal, state, and local regulations, NEC will disclose to the alleged victim of a crime of violence or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by NEC against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for the purposes of this paragraph.

#### Methods of Communication

Open lines of communication are extremely important in maintaining security on campus. In this regard, NEC Public Safety will work diligently in keeping everyone informed about important events both on and off campus. The different ways in which we will keep the community informed include, but are not limited to the Annual Campus Security and Fire Safety Report, timely warnings, emergency notifications and/or information bulletins, email announcements, signage, its website, and personal interactions.

## Sexual Harassment and Sexual Misconduct Information

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#### Sexual Misconduct and Gender-Based Misconduct Policies

NEC is committed to providing a safe learning and working environment. NEC complies with all state and federal guidelines related to sexual misconduct, including the Title IX of the Higher Education Amendment Act (1972), the Violence Against Women Act (1994 and 2013), and the Campus Sexual Violence Elimination Act (2013).

NEC's policies apply to all members of the NEC community, and are available as follows:

- Title IX Sexual Misconduct Policy (Appendix II) is available at <https://necmusic.edu/title-ix>
- Gender-Based Misconduct Policy (Appendix III) covering all other allegations of gender-based misconduct that do not apply to Title IX is available at <https://necmusic.edu/gender-based-misconduct-policy>.

Allegations of sexual misconduct or gender-based misconduct involving any member of the NEC community may be reported to a Title IX Officer, as listed at <https://necmusic.edu/title-ix>. As of the date of this report, reports should be made to:

Nick Macke, Title IX Coordinator  
Title IX Coordinator  
Office of Human Resources  
St. Botolph Building, room 203  
(617) 585-1229

Should individuals prefer to remain anonymous, reports can be filed through a confidential, third-party reporting platform, [EthicsPoint](#), although NEC's ability to respond directly to anonymous reports may be limited depending on the facts and circumstances available to us.

NEC prohibits all forms of sexual misconduct. Sexual misconduct refers to a broad spectrum of behavior encompassing sexual harassment and all forms of non-consensual sexual activity. Sexual misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientation, and does not discriminate by racial, social, or economic background.

Key definitions of prohibited conduct under the *Title IX Sexual Misconduct Policy* (Title IX Policy) and/or the *Gender-Based Misconduct Policy* (GBM Policy) are below. It is important to review the policies in their entirety to determine the applicability of each policy. The Title IX Officer is also a resource for more information. Definitions are as follows:

- **Sexual Misconduct:** Sexual misconduct refers to a broad spectrum of behavior encompassing sexual harassment and all forms of non-consensual sexual activity. Sexual misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientation, and does not discriminate by racial, social, or economic background.
- **Sexual Assault:** Having or attempting to have sexual intercourse or sexual contact with another individual without consent. This includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where an individual does not consent to the sexual act, or where an individual is incapacitated.
- **Sexual Exploitation:** An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any non-legitimate purpose.
- **Intimate Partner Violence:** Intimate partner violence, also referred to as dating violence, domestic violence, or relationship violence, includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual or dating relationship with that person. It may involve one act or an ongoing pattern of behavior. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and does not discriminate by racial, social, or economic background.
- **Pregnancy and Lactation Discrimination:** Individuals that are pregnant, have given birth, or have related issues (including lactation) may request a reasonable accommodation to enable them to attend school and/or perform their job.
- **Sexual Harassment:** Sexual harassment is a form of discriminatory harassment occurring within an employment or educational context that federal and state law addresses with very specific provisions. Unwelcome sexual advances, requests of sexual favors, and/or other verbal or physical contact of a sexual nature constitute sexual harassment when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic or employment success (also known as *quid pro quo* harassment); submission to or rejection of such conduct by an individual is used as the basis for academic or employment evaluation and decisions affecting such an individual (also known as *quid pro quo* harassment); such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile, or offensive living, learning, or work environment (also known as the creation of a hostile environment).
- **Stalking:** 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. This includes cyber-stalking, a particular form of stalking in which electronic media is used to pursue, harass, or make unwelcome contact with another person.
- **Retaliation:** Acts or attempts to retaliate or seek retribution against the reporting party, responding party, or any individual or group of individuals involved in the investigation and/or resolution of an allegation; including subjecting a person to an adverse employment or educational action because they made a complaint under any portion of the Title IX Policy or the GBM Policy, or responded to, assisted or participated in any manner in an investigation under either Policy. Any individual or group of individuals, not just a responding party or reporting party, can be guilty of retaliation. Retaliation may include continued abuse or violence and other forms of harassment.
- **Prohibited Sexual Relations with Students:** No employee shall request or accept sexual favors from, or initiate or engage in a romantic or sexual relationship with, any student of any status at NEC. Unless

specific written permission is provided in extremely limited circumstances to be discussed with NEC's Human Resources office, this is an absolute prohibition.

- **Relationships between Individuals of Different Conservatory Status:** Amorous relationships between individuals of different Conservatory status that occur outside the instructional context can also lead to difficulties. In a personal relationship between an instructor or other faculty or staff member, and an individual for whom the instructor or other faculty or staff member has no current professional responsibility, the instructor or other faculty or staff member should be sensitive to the possibility that he or she may unexpectedly be placed in a position of responsibility for that individual's instruction or evaluation. In addition, one should be aware that others may speculate that a specific power differential exists even when there is none, giving rise to assumptions of inequitable academic or professional advantage for the student involved. Unless specific written permission is provided in extremely limited circumstances to be discussed with NEC's Human Resources office, this is an absolute prohibition.
- **Other Prohibited Forms of Sex Discrimination:** This includes forms of different treatment on the basis of sex (including on the basis of sexual orientation, gender identity, and/or gender expression) that is not otherwise set forth as prohibited conduct within NEC's Title IX or GBM policies.

The complete Title IX Sexual Misconduct and Gender-Based Misconduct policies are located in Appendix II and III of this report, respectively, as well as on NEC's website.

#### Massachusetts Sex Offender Registry

If you have any concerns regarding suspicious persons on or near campus you can go to the Massachusetts Sex Offender Registry site by clicking on the following link: <https://www.mass.gov/orgs/sex-offender-registry-board>

### **Information regarding Alcohol, Illicit Drugs and Hazing**

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NEC recognizes that substance abuse can be detrimental to the health, safety, learning, and well-being of individuals. NEC requires all incoming students to complete a drug and alcohol awareness training. Additionally, NEC has identified resources available to community members within its Health and Counseling services website. For more information, see <https://necmusic.edu/health-counseling/drug-alcohol>.

#### Alcohol Policy

In Massachusetts, the legal drinking age is 21. Underage drinking, or providing alcohol to a minor, is illegal. The Conservatory requires its students to follow all state laws and regulations on alcohol, including those governing sale, purchase, or serving of alcoholic beverages. Those who violate state law or school policy will face disciplinary action, including the possibility of suspension or expulsion. In addition, we expect students of legal age to recognize the responsibilities of choosing to drink; disruptive, noisy, or belligerent behavior violates the school's expectations. NEC reserves the right to confiscate alcoholic beverages and containers whenever NEC's alcohol policy is violated. Students who live in the Residence Hall are also held to the Alcohol and Alcohol Paraphernalia Residence Hall policy.

#### Drug Policy

Under the 1988 Anti-Drug Abuse law, the Conservatory is required to provide a drug-free environment; NEC does not condone possession, use, sale, or distribution of illegal drugs. Students who participate in such activities face disciplinary action. The Conservatory also prohibits drug paraphernalia (including bongs, clips, pipes and other items) from its premises. These items are subject to confiscation; students using them are liable to disciplinary action, including the possibility of suspension or expulsion. Therefore, the use, possession, or cultivation of marijuana for medical or recreational purposes is not permitted on Conservatory property. Students should also recognize that, in addition to Conservatory sanctions, students face potential loss of financial aid for any violation of the 1988 Act. The Department of Education has announced that all Title IV student aid (including Pell Grant) recipients are required to certify that their benefits have not been suspended or terminated due to a drug conviction. Institutions finding out that students are convicted of drug offenses during periods of enrollment covered by Pell Grants must report the miscertification and withhold further Title IV payments. In addition, under

Federal Law, notice may be provided to the parents of students under age 21 who violate the Conservatory's Drug and Alcohol Policies.

### Hazing Policy

The Commonwealth of Massachusetts passed anti-hazing legislature in December 1987, making it a crime punishable by state law:

- **Section 17: Hazing; organizing or participating; hazing defined:** Whoever is a principal organizer or participant in the crime of hazing, as defined herein, shall be punished by fine of not more than three thousand dollars or by imprisonment in a house of correction for not more than one year, or both such fine and imprisonment. The term 'hazing' as used in this section and in sections eighteen and nineteen, shall mean any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Notwithstanding any other provision of this section to the contrary, consent shall not be available as a defense to any prosecution under this action.

- **Section 18: Failure to report hazing:** Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or other, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such crime shall be punished by a fine of not more than one thousand dollars.
- **Section 19: Issuance to students and student groups, teams, and organizations; report:** Each institution of secondary education and each public and private institution of post-secondary education shall issue to every student group, student team or student organization which is part of such institution or is recognized by the institution or permitted by the institution to use its name or facilities or is known by the institution to exist as an unaffiliated student group, student team, student organization, a copy of this section and sections seventeen and eighteen; provided, however, that an institution's compliance with this section's requirements that an institution issue copies of this section and sections seventeen and eighteen to unaffiliated student groups, teams or organizations shall not constitute evidence of the institution's recognition or endorsement of said unaffiliated student groups, teams or organizations.

Each such group, team or organization shall distribute a copy of this section and sections seventeen and eighteen to each of its members, plebes, pledges, or applicants for membership. It shall be the duty of each such group, team or organization, acting through its designated officer to deliver annually, to the institution an attested acknowledgement stating that such group, team or organization has received a copy of this section and said sections seventeen and eighteen, that each of its members, plebes, pledges or applicants has received a copy of sections seventeen and eighteen, and that such group, team or organization understand and agrees to comply with the provisions of this section and sections seventeen and eighteen.

Each institution of secondary and each public or private institution of post-secondary education shall, at least annually, before or at the start of enrollment, deliver to each person who enrolls as a full-time student in such institution a copy of this section and sections seventeen and eighteen.

Each institution of secondary education and each public or private institution of post-secondary education shall file, at least annually, a report with the board of higher education and in the case of secondary

institutions, the board of education, certifying that such institution has complied with its responsibility to inform student groups, teams or organizations and to notify each full time student enrolled by it of the provisions of this section and sections seventeen and eighteen and also certifying that said institution has adopted a disciplinary policy with regard to the organizers and participants of hazing, and that such policy has been set forth with appropriate emphasis in the student handbook or similar means of communicating the institution's policies to its students. The board of higher education and, in the case of secondary institutions, the board of education shall promulgate regulations governing the content and frequency of such reports, and shall forthwith report to the attorney general any such institution, which fails to make such report."

New England Conservatory will not tolerate hazing of any kind; its discipline committee will review any such activity – or any failure to report such activity – according to procedures outlined under the disciplinary code above.

## Part 2: Uniform Campus Crime Report (2017, 2018, and 2019 Statistics)

### Crime Statistics Definitions

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NEC is required to report statistics for specific crimes defined below and which are determined to have occurred in NEC's Clery geography also defined below. The statistics are included in the report for the year in which the crime was reported to NEC and not the year the crime occurred.

#### Clery Act Geography Definitions

- **On-campus:** Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including the residence hall; and any building or property that is within or reasonably contiguous to the area identified in the previous sentence of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).
- **Non-campus buildings or property:** Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.
- **Public property:** All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

#### Clery Act Crime Definitions

The following list contains definitions on the types of Criminal Offenses which must be recorded in the **Crime Statistics Report**:

- **Murder and Non-negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.
- **Negligent Manslaughter:** The killing of another person through gross negligence.
- **Sexual Assault:** Any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.
- **Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- **Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon that could cause serious personal injury is used.)
- **Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- **Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle.
- **Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

## Clery Act Sexual Offense Definitions

The following sex offenses fall within the definition of “sexual assault” under the Clery Act:

- **Rape:** 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:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

## Violence Against Women Reauthorization Act (VAWA) Crime Definitions

- **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. The existence of such 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 and does not include acts covered under the definition of domestic violence.
- **Domestic Violence:** A felony or misdemeanor crime 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 in which the crime of violence occurred; 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 in which the crime of violence occurred.
- **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. Course of conduct is defined as 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 another person or interferes with a person’s property. A reasonable person is defined as a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress is defined as significant mental suffering or anguish that may, but does not necessarily require medication or other professional treatment or counseling. *Note:* the definition of the Massachusetts crime of “stalking” is different than the federal definition. The definition above reflects the federal definition reportable under the Clery Act. “Stalking” under Massachusetts law requires that the suspect engage in a pattern of conduct or series of acts in at least 3 incidents directed at a specific person that would cause a reasonable person to suffer substantial emotional distress and involves a threat with intent to cause imminent fear of death or serious bodily harm. “Stalking” under the federal definition and as reflected in the statistics below requires that the suspect engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. Under this federal definition, “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. A threat is not required under the federal definition.

## Arrests and Referrals for Discipline for Violations of Liquor, Drug, and Weapons Laws

- **Liquor Law Violations:** The violation of laws or ordinances prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places, bootlegging, operating a still, furnishing liquor to minor or intemperate person, using a vehicle for illegal transportation of liquor,

drinking on a train or public conveyance, all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

- **Drug Law Violations:** Drug Abuse Violations are defined as the violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs.
- **Weapon Violations:** Weapons: Carrying, Possessing, Etc., is defined as the violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification encompasses weapons offenses that are regulatory in nature.

#### Hate Crime

Under the Clery Act, a hate crime is a criminal offense that manifests evidence of that the victim was intentionally selected because of the perpetrator's bias against the victim. "Bias" is a preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation, ethnicity, national origin, or gender identity. For Clery purposes, hate crimes include any Clery Act felony (murder or non-negligent manslaughter, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, or arson) together with any of the following crimes to the extent they manifest evidence of bias as defined above:

- **Larceny-theft:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Constructive possession is the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.
- **Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
- **Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
- **Destruction, damage or vandalism of property:** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of the property.

## Crime Statistics Report

Criminal Offenses Reporting Table					
Offense	Year	Geographic Location			
		On Campus Property	On-Campus Student Housing	Noncampus Property	Public Property
Murder	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Murder/Non-Negligent Manslaughter	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Sex Offense – Forcible					
Rape	2017	1	1	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Fondling	2017	1	1	0	0
	2018	1	0	0	0
	2019	0	0	0	0
Sex Offense – Non-forcible					
Incest	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Statutory Rape	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Robbery	2017	0	0	0	1
	2018	1	0	0	0
	2019	1	0	0	1

Aggravated Assault	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Burglary	2017	5	0	0	0
	2018	0	0	0	0
	2019	3	0	0	0
Motor Vehicle Theft	2017	1	0	0	0
	2018	0	0	0	0
	2019	0	0	0	1
Arson	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0

VAWA Offenses Reporting Table					
Offense	Year	Geographic Location			
		On Campus Property	On-Campus Student Housing Facilities	Noncampus Property	Public Property
Domestic Violence	2017	1	1	0	0
	2018	1	1	0	0
	2019	0	0	0	0
Dating Violence	2017	1	0	0	0
	2018	0	0	0	0
	2019	0	0	0	1
Stalking	2017	2	0	0	0
	2018	0	0	0	0
	2019	1	0	0	0

Arrests and Disciplinary Referrals Reporting Table					
Offense	Year	Geographic Location			
		On Campus Property	On-Campus Student Housing Facilities	Noncampus Property	Public Property
Arrests: Weapons: Carrying, Possessing, Etc.	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Disciplinary Referrals: Weapons: Carrying, Possessing, Etc.	2017	0	0	0	0
	2018	2	2	0	0
	2019	0	0	0	0
Arrests: Drug Abuse Violations	2017	0	0	0	0
	2018	0	0	0	1
	2019	0	0	0	0
Disciplinary Referrals: Drug Abuse Violations	2017	3	3	0	0
	2018	19	19	0	0
	2019	4	2	0	0
Arrests: Liquor Law Violations	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0
Disciplinary Referrals: Liquor Law Violations	2017	29	29	0	0
	2018	30	30	0	0
	2019	24	20	0	0

Hate Crimes									
Location	Year	Category of Bias for offense reported							
		Race	Religion	Sexual Orientation	Gender	Gender Identity	Disability	Ethnicity	National Origin
On Campus Property	2017	0	0	0	0	0	0	0	0
	2018	0	0	0	0	0	0	0	1
	2019	0	0	0	0	0	0	0	0
On-Campus Student Housing Facilities	2017	0	0	0	0	0	0	0	0
	2018	0	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0	0
Public Property	2017	0	0	0	0	0	0	0	0
	2018	0	0	0	0	0	0	0	0
	2019	0	0	0	0	1	0	0	0

Unfounded Offenses					
	Year	Geographic Location			
		On Campus Property	On-Campus Student Housing Facilities	Noncampus Property	Public Property
Unfounded Offenses	2017	0	0	0	0
	2018	0	0	0	0
	2019	0	0	0	0

## Part 3: Fire Safety Report

### Fire Safety Report

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At NEC, the responsibility to maintain Fire Safety on campus is done in collaboration between Public Safety, Student Services, and the Facilities Departments. Fire drills are scheduled to be conducted in compliance with Boston City fire codes. The Residence Hall is located in the Student Life and Performance Center (SLPC). During 2019 there were no reported fires, fire related injuries or fire related damage in the building.

#### Emergency Procedures and Information

All students need to be aware of what to do in emergency situations. Any situation in which life, physical well-being or property is in jeopardy constitutes an emergency. In such a situation, first render assistance where practical and the second step is to get help. Emergencies might require the response of medical, law enforcement or firefighting professionals. If there is a question about the need for help, it is advisable to call 911.

In case of an actual fire, contact the Fire Department directly by using the nearest fire alarm or by calling 911. Once you are safely out of the building notify the public safety officers. When calling the Public Safety emergency line at (617) 585-1777, an officer will respond directly, securing any necessary assistance such as the Police Department, Fire Department or ambulance service. It is best to allow the Public Safety Officer to coordinate the response to emergencies.

When calling the Public Safety Emergency Line, please speak clearly, concisely and provide a telephone number where you can be reached. Remember to state your name, give your location, and give a description of the emergency situation.

#### Emergency Call Boxes (Blue Light Phones)

There are four (4) emergency call boxes located on campus that will put you in direct contact with Public Safety. The four emergency call boxes located on campus are at 33 Gainsborough Street, 241 St. Botolph Street, the public alley loading dock area, and on the corner of St. Botolph Street and Gainsborough Street.

When activated, these phones will automatically call Public Safety, announce your location and set off the blue strobe light. The emergency call boxes should be used whenever you need to contact Public Safety or to summon additional help such as police, fire or ambulance. These lights are to only be used to summon help for an active emergency situation.

#### Fire Precautions and Procedures for Residence Hall Students

Whenever a fire alarm sounds, each resident and the resident guest(s) are to immediately leave the building and go to the specified assembly point (see below). **Never assume** that fire alarm activation is accidental or a prank.

The Residence Hall is considered a “high rise” facility and is evacuated accordingly. The voice recording notifying residents of an emergency in the building plays and is followed by instructions to evacuate if a pulsating tone sounds.

The floor where the emergency is initially reported and the floors directly above and below are evacuated first. All Residence Life staff members are required to evacuate regardless of whether the tone sounds on their floor.

Residents take the Stairwells A and B to the first floor and exit the Student Life and Performance Center by the front doors. Residents proceed down St. Botolph Street to Jordan Hall and to either Williams Hall or Brown Hall where they will meet with their RA and other members on their floor. Residents wait until a Residence Life staff

member instructs them that it is safe to re-enter the SLPC. When the Boston Fire Department arrives on campus, they will be assisted in the SLPC by Public Safety staff, if necessary.

#### Fire Evacuation Procedures

1. Immediately activate the building fire alarm system which will automatically notify the fire department and get help on the way. It is best to have the fire department respond and not be needed than to have them arrive too late for potential rescue. If you are in a building without a fire alarm system, dial 911 from a safe location to report the fire. If you call 911, contact Public Safety after you safely exit the building, as there can be a delay in the EMS response to the campus. Call Public Safety at (617) 585-1777. Identify yourself and provide as much specific information as you can in a calm manner.
2. After sounding the Fire Alarm, your first concern is to get out of the building. As a member of the college community, you are encouraged to assist everyone out of the building without putting yourself in harm's way. On your way out of the building, knock on doors and announce that everyone needs to evacuate the building. Do not wait for an answer. Assist those who need assistance with either leaving the building or hearing the alarm. **Never assume** that fire alarm activation is accidental or a prank.
3. Prepare and evacuate the building by way of the nearest emergency exit. Walk; do not run. Do not use elevators. Assist any person in immediate danger to safety, if it can be accomplished without risk to yourself.
4. Calmly assist visitors during alarm/emergency situations. Visitors may not be aware of exits/alternative exits and the procedures that should be taken during alarm situations.
5. Close but **do not lock** all doors as you leave.
6. Before exiting through any closed door, check for heat and the presence of fire behind the door by feeling the door with the back of your hand. If the door feels very warm or hot to the touch, advise everyone to proceed to another exit.
7. *In the SLPC Residence Hall:* The residence life staff will assist students in getting to the assigned Assembly point. Once students have arrived at the assigned assembly point the residence life staff will begin to assess which students have arrived from the residence hall. The residence life staff will help to ensure that all students stay at the assembly point. In the event of a fire alarm all occupants in the SLPC should proceed to the Jordan Hall main entrance on Gainsborough Street. Public Safety will then direct evacuees to either Williams Hall or Brown Hall as an assembly point. Please refer to the Evacuation maps in Appendix IX, of this document.
8. *In Academic and Administration buildings:* Faculty and staff should assist students/building occupants in going to the assigned assembly point. Please remember that all buildings have multiple emergency exits and faculty/staff should direct everyone to use them. Once building occupants have arrived at the assigned assembly point the process to assess which individuals have arrived from that building can begin. The senior administrator from the affected building should assign staff to take note of those who are not there and report to Public Safety those occupants that are missing. Help to ensure that everyone stays at the Meeting point.
  - a. *Assembly point for 33 Gainsborough Street and 241 St. Botolph Street:* In the event of a Fire alarm all occupants in these locations will proceed to the Jordan Hall main entrance on Gainsborough Street. Public Safety will then direct evacuees to either Williams Hall or Brown Hall as an assembly point. Please refer to the Evacuation maps in Appendix IX, of this document.
  - b. *Assembly point for Jordan Hall:* In the event of a Fire alarm all occupants in Jordan Hall will proceed to the SLPC dining area. The Public Safety Supervisor will notify all on duty personnel that the SLPC will be utilized as a place of refuge.

9. Upon exiting the building and proceeding to the Assembly point, remain at least 50 feet away from the building walls and overhangs. Do not block any driveways, as Fire Department personnel will need access to these areas. Students, faculty and staff are requested to report to their assigned meeting point as defined by the Evacuation Procedure maps.
10. The cessation of an alarm/departure of the fire department is not an "all clear" to re-enter the building as corrective measures may still be in progress. Public Safety and the Boston Fire Department will make a sweep of the building and assess the situation from that point. Stay clear of the building until the Fire Department, or Public Safety has advised you that it is safe to re-enter the building/area.
11. In the event you are unable to exit the building:
  - a. Remain calm; do not panic
  - b. If there is smoke in the room, keep low to the floor, crawl if necessary
  - c. Place a cloth, wet if possible, over your mouth to serve as a filter
  - d. Before passing through any doors, feel the metal doorknob and the door. If it is hot, do not open the door. Attempt an alternative exit.
  - e. Open the windows from the top, if possible (to let out the smoke and the heat) and from the bottom (to let in fresh air).
  - f. If you cannot exit out of the window, signal for help from a window. Hang something out of the window to attract the attention of the Fire Department, such as a pillowcase or shirt.
  - g. If you can open the door (if it is not hot to the touch), brace yourself against the door and open it slowly in order to make sure there is no heat or heavy smoke on the other side. If there is, then close it again.
  - h. If you are able to leave the room through the door, close it as you exit.
  - i. Go to the nearest exit or stairs. If the nearest exit is blocked by fire, heat or smoke, go the alternate exit.
  - j. If all exits on the floor are blocked, go back to your room/office, close the door, open the window, wave something out the window and shout for help.

#### Public Safety Department Evacuation Responsibilities

##### *Evacuation of the SLPC, 33 Gainsborough Street, and 241 St. Botolph Street:*

In the event of a Fire alarm all occupants in these locations will proceed to the Jordan Hall main entrance on Gainsborough Street. Public Safety responsibilities include:

- The Public Safety Supervisor will notify all on duty personnel that Jordan Hall will be utilized as a place of assembly.
- The Public Safety Supervisor will assist in directing students, employees and visitors to the Jordan Hall.
- The officer at 33 Gainsborough St. will assist evacuees in crossing Gainsborough Street.
- The officer assigned to Jordan Hall will then direct evacuees to either Williams Hall or Brown Hall as an assembly point.

##### *Evacuation of Jordan Hall:*

In the event of a Fire alarm all occupants in Jordan Hall will proceed to the SLPC. Public Safety will:

- The Public Safety Supervisor will notify all on duty personnel that the SLPC will be utilized as a place of refuge.
- The Public Safety Supervisor will assist in directing students, employees and visitors to the SLPC entrance.
- The officers assigned at 33 Gainsborough St. and Jordan Hall will assist evacuees in crossing Gainsborough Street.
- The SLPC officer will assist in ushering people into the dining area on the first floor of the SLPC.

## Fire Data Summary

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### Fire Investigations Report

The New England Conservatory of Music campus is where all student housing is located. In 2019 there were no fires reported on the New England Conservatory of Music campus, as noted in the following Campus Safety and Security Survey Fire Data Summary submitted to the US Department of Education:

Summary of Fires									
	2017			2018			2019		
Name of Residence Facility	Fires	Injuries	Deaths	Fires	Injuries	Deaths	Fires	Injuries	Deaths
SLPC	0	0	0	0	0	0	0	0	0
Totals	0	0	0	0	0	0	0	0	0

## Appendix I: Clery Act and Student's Right to Know Policy

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act is a federal statute codified at 20 U.S.C. §1092(f), with implementing regulations in the US Code of Federal Regulations at 34 CFR 668.46.

The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. Compliance is monitored by the United States Department of Education, which can impose civil penalties, up to \$35,000 per violation, against institutions for each infraction and can suspend institutions from participating in federal student financial aid programs.

The law is named for Jeanne Clery, a 19-year-old Lehigh NEC freshman who was raped and murdered in her campus residence hall in 1986. The backlash against unreported crimes on numerous campuses across the country led to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. The Clery Act, signed in 1990, was originally known as the Crime Awareness and Campus Security Act.

In 1990, Congress enacted the *Crime Awareness and Campus Security Act of 1990* (Title II of Public Law 101-542), which amended the *Higher Education Act of 1965 (HEA)*. This act required all postsecondary institutions participating in HEA's Title IV student financial assistance programs to disclose campus crime statistics and security information. The act was amended in 1992, 1998 and 2000. The 1998 amendments renamed the law the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* in memory of a student who was slain in her dorm room in 1986. It is generally referred to as the *Clery Act*.

On Aug. 14, 2008, the *Higher Education Opportunity Act* or *HEOA* (Public Law 110-315) reauthorized and expanded the *Higher Education Act of 1965*, as amended. *HEOA* amended the *Clery Act* and created additional safety- and security-related requirements for institutions. Specifically, it added:

- New categories to the list of hate crimes all institutions must disclose (Clery amendment);
- A new disclosure regarding the relationship of campus security personnel with state and local law enforcement agencies (Clery amendment);
- Implementation and disclosure of emergency notification and evacuation procedures for all institutions (Clery amendment);
- Implementation and disclosure of missing student notification procedures for institutions with on-campus student housing facilities (*HEOA*);
- Fire safety reporting requirements for institutions with on-campus student housing facilities (*HEOA*); Text clarifying the definition of an on-campus student housing facility (Clery and *HEOA*); and
- A Program Participation Agreement (PPA) requirement concerning disclosure of the results of disciplinary proceedings to the alleged victim of any crime of violence or a non-forcible sex offense (*HEOA*).

### **Student's Right-to-Know and Campus Security Act**

The "Student Right-to-Know and Campus Security Act" (P.L. 101-542), broader in scope than the Clery Act, requires schools eligible for Title IV funding to calculate completion or graduation rates and to disclose these rates to all students and prospective students. The act also requires each school that participates in any Title IV program to submit a report to the Secretary of Education annually.

### **Uniform Campus Crime Report (UCCR)**

Notice is hereby given that, in accordance with the Federal Student Right-to-Know and Crime Awareness and Campus Security Act of 1990, the Uniform Campus Crime Report for the New England Conservatory of Music is available from NEC Public Safety and will be provided upon request. Incident Logs and Public Safety Alerts are also available for view upon request.

## Appendix II: Title IX Misconduct Policy

Revised August 2020

See also <https://necmusic.edu/title-ix>

### **New England Conservatory's Title IX Policy on Sexual Misconduct**

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New England Conservatory (NEC) is committed to providing a safe learning and working environment. We comply with all state and federal guidelines relating to sexual misconduct, including Title IX of the Higher Education Amendment Act (1972), the Violence Against Women Act (1994 and 2013), and the Campus Sexual Violence Elimination Act (2013). This policy applies to allegations of sexual misconduct at NEC as mandated by Title IX of the Educational Amendments of 1972, and applies to all members of the NEC community. Allegations of sexual misconduct involving any member of the NEC community should be reported to a Title IX Officer:

Nick Macke, Title IX Coordinator  
Office of Human Resources  
St. Botolph Building, room 203  
617-585-1229

The Conservatory prohibits all forms of sexual misconduct. Sexual misconduct refers to a broad spectrum of behavior encompassing sexual harassment and all forms of non-consensual sexual activity. Sexual misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientation, and does not discriminate by racial, social, or economic background.

### **PROHIBITED CONDUCT UNDER THE GENDER-BASED MISCONDUCT POLICY AND/OR THE TITLE IX SEXUAL MISCONDUCT POLICY**

#### **Sexual Misconduct**

The Conservatory prohibits all forms of sexual misconduct. Sexual misconduct refers to a broad spectrum of behavior encompassing sexual harassment and all forms of non-consensual sexual activity. Sexual misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientation, and does not discriminate by racial, social, or economic background. The Conservatory will utilize this general term in both its [Title IX Policy](#) as well as its [GBM Policy](#), as appropriate.

#### **Sexual Assault**

Having or attempting to have sexual intercourse or sexual contact with another individual without consent. This includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where an individual does not consent (see definition for "Consent" above) to the sexual act, or where an individual is incapacitated. Sexual assault includes the following:

- Penetrating or attempting to penetrate another individual without their consent. This includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.
- Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth, or any other part of the body that is touched in a sexual manner.

*\*Sexual Assault will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

### **Sexual Exploitation**

An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any non-legitimate purpose. Examples include, but are not limited to: observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved; non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved; prostituting another individual; knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

*\*Sexual exploitation is prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is consolidated with other forms of Title IX prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.*

### **Intimate Partner Violence**

Intimate partner violence, also referred to as dating violence, domestic violence, or relationship violence, includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual or dating relationship with that person. It may involve one act or an ongoing pattern of behavior. Intimate partner violence can encompass a broad range of behavior, including, but not limited to threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and does not discriminate by racial, social, or economic background.

The Conservatory will not tolerate intimate partner violence of any form. The Conservatory also recognizes that certain forms of sexual harassment, sexual assault, sexual exploitation, stalking, harm to others, emotional and psychological abuse, harassing conduct, and retaliation may all be forms of intimate partner violence when committed by a person who is or has been involved in a sexual, dating or other social relationship of a romantic or intimate nature with the reporting party. In such situations, all potential charges may be included.

*\*Intimate Partner Violence will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

### **Pregnancy and Lactation Discrimination**

Individuals that are pregnant, have given birth, or have related issues (including lactation) may request a reasonable accommodation to enable them to attend school and/or perform their job. If an individual believes that they were discriminated against because of any of these issues or other related issues, that could violate the GBM Policy.

### **Sexual Harassment**

Sexual harassment is a form of discriminatory harassment occurring within an employment or educational context that federal and state law addresses with very specific provisions. In cases where sexual harassment is alleged, the Conservatory has a duty to act promptly, so as to assure that if such harassment is, in fact, occurring or has occurred, corrective action is taken and further harm is prevented.

Unwelcome sexual advances, requests of sexual favors, and/or other verbal or physical contact of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic or employment success (also known as *quid pro quo* harassment),
- submission to or rejection of such conduct by an individual is used as the basis for academic or employment evaluation and decisions affecting such an individual (also known as *quid pro quo* harassment), or
- such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile, or offensive living, learning, or work environment (also known as the creation of a hostile environment).

The effect of sexual harassment will be evaluated based on the perspective of a reasonable person in the position of a Reporting Party. A single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical. However, under the new federal regulations, behavior must be severe and pervasive, as well as subjectively and objectively offensive. That is, not only must the Reporting Party feel that the behavior is offensive, but a reasonable person similarly situated must also consider such behavior to be offensive.

*\*Sexual Harassment will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

### **Stalking**

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. This includes cyber-stalking, a particular form of stalking in which electronic media is used to pursue, harass, or make unwelcome contact with another person. Stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

*\*Stalking will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

### **Retaliation**

Acts or attempts to retaliate or seek retribution against the reporting party, responding party, or any individual or group of individuals involved in the investigation and/or resolution of an allegation; including subjecting a person to an adverse employment or educational action because they made a complaint under any portion of the Title IX Policy or the GBM Policy, or responded to, assisted or participated in any manner in an investigation under either Policy. Any individual or group of individuals, not just a responding party or reporting party, can be guilty of retaliation. Retaliation may include continued abuse or violence and other forms of harassment.

Retaliation allegations may be consolidated with other forms of prohibited conduct defined in this section if the facts and circumstances significantly overlap. If the facts and circumstances do not significantly overlap, then the Conservatory retains discretion to adjudicate the allegation under a different but appropriate policy. For example, if a Responding Party retaliates against a Reporting Party with regard to the filing of a complaint, that behavior could be consolidated with the other prohibited conduct alleged, provided appropriate notice is afforded. On the other hand, if the retaliatory conduct is committed by one of the parties' friend group who are not otherwise subject to a grievance under this Title IX Policy, that behavior could be adjudicated under another student or employee conduct policy which prohibits such behavior.

### **Prohibited Sexual Relations with Students**

No employee shall request or accept sexual favors from, or initiate or engage in a romantic or sexual relationship with, any student of any status at NEC. Unless specific written permission is provided in extremely limited circumstances<sup>1</sup> to be discussed with NEC's Human Resources office, this is an absolute prohibition.

*\*This form of relationship is prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is alleged to be a form of sexual harassment, in which case NEC reserves the right to use its Title IX Policy. NEC also reserves the right to consolidate this form of prohibited conduct with other forms of Title IX prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.*

### **Relationships between Individuals of Different Conservatory Status**

Amorous relationships between individuals of different Conservatory status that occur outside the instructional context can also lead to difficulties. In a personal relationship between an instructor or other faculty or staff member, and an individual for whom the instructor or other faculty or staff member has no current professional responsibility, the instructor or other faculty or staff member should be sensitive to the possibility that he or she may unexpectedly be placed in a position of responsibility for that individual's instruction or evaluation. This could involve being called upon to write a letter of recommendation or to serve on an admissions or selection committee involving the individual. In addition, one should be aware that others may speculate that a specific power differential exists even when there is none, giving rise to assumptions of inequitable academic or professional advantage for the student involved. Although graduate students, teaching fellows, tutors, and undergraduate course assistants may be less accustomed than Faculty members to thinking of themselves as being in a position of greater authority by virtue of their professional responsibilities, they should recognize that they might be viewed as more powerful than they perceive themselves to be. Unless specific written permission is provided in extremely limited circumstances to be discussed with NEC's Human Resources office, this is an absolute prohibition. *\*This form of relationship is also prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is alleged to be a form of sexual harassment, in which case NEC reserves the right to use its Title IX Policy. NEC also reserves the right to consolidate this form of prohibited conduct with other forms of Title IX prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.*

### **Other Prohibited Forms of Sex Discrimination**

This includes forms of different treatment on the basis of sex (including on the basis of sexual orientation, gender identity, and/or gender expression) that is not otherwise set forth as Prohibited Conduct (above). Such conduct will be treated under NEC's GBM Policy unless the Title IX Coordinator, in consultation with appropriate Conservatory officials, determines otherwise.

## **PROCESS**

Under the Department of Education's Title IX Regulations, effective August 14, 2020, the following procedures will apply only to a narrow category of cases falling under [New England Conservatory's Title IX Sexual Misconduct Policy \("Title IX Policy"\)](#). Those cases meeting the definitions and jurisdictional elements, as well as in the [Definitions section of this Title IX Policy](#), will follow this process. Those cases that do not fit within these new guidelines will be handled through the Conservatory's other sexual misconduct and non-discrimination processes. This distinction is not to suggest that any case is more or less important, but instead a reflection of federal

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<sup>1</sup> NEC requires notice of any existing relationships that may exist, and the factors that NEC will consider in granting permission to continue such a relationship will be extremely fact specific and limited. For example, if an individual was married to a faculty member and decided to return to NEC to pursue a degree opportunity, that factor would be considered but the individuals may still be restricted from providing academic or professional opportunities to each other to avoid the risk of impropriety.

regulations that apply to only a specifically-identified set of cases. If you are unclear about any of the provisions below and would like to get more information, you may speak on a non-confidential basis with a Title IX Officer.

## 1. Initial Steps

After receiving a report of conduct that could fall under the Title IX Policy, the Title IX Officer will take a number of initial steps; these initial steps are not an investigation. Rather, these initial steps will enable the Conservatory to assess the need to take any immediate action to address the safety and health needs of the parties involved in a matter, to help the parties determine the next appropriate steps, whether under this Title IX Policy or a referral to another Conservatory policy.

These initial steps may include, but are not limited to, the following:

- A. The Title IX Officer will contact the party making the initial allegation (the “Reporting Party”) and encourage them to meet virtually or in person to discuss the nature and circumstances of the reported conduct, review relevant documentation that is available, and describe the various options available to them.
- B. Regardless of whether a Reporting Party decides to participate in an adjudication process, they may be entitled to supportive measures. Supportive measures, as defined in the [Definitions section of this Policy](#), are non-disciplinary, non-punitive individualized services, offered as appropriate, as reasonably available, and without fee or charge to either the Reporting Party or the Responding Party before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to restore or preserve equal access to Conservatory’s educational programs or activities, and they will be designed so as not to unreasonably burden the other party. Supportive measures may include, but are not limited to, the following: counseling; academic accommodations, such as extensions of deadlines or other course-related adjustments; course changes or drops; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the campus; and no trespass notices, among others. Factors to be considered in determining reasonable supportive measure may include the following:
  - the specific need expressed by the requesting party;
  - the burden of the measure, if any, on the other party;
  - the severity and/or pervasiveness of the allegations;
  - whether the parties share the same residence hall, dining hall, class, performing or practice spaces, extracurricular activities, transportation and/or job location; and
  - whether other judicial measures have been taken to protect a party or the parties.

The decision to impose supportive measures or any interim restrictions will be communicated by the Title IX Officer in writing. The Conservatory will seek to be transparent with regard to the supportive measures provided to the parties and which impact both parties. The Conservatory may be limited in certain situations when student or employee privacy issues prevent disclosures.

- C. The Title IX Officer will explain the Title IX Policy and the different options and protections available to the parties. The Title IX Officer will also explain the right to report and the right to delay or decline to report the matter to the Conservatory. The parties may choose to report to such conduct to local law enforcement if the conduct is potentially criminal in nature. Such a report will not change the Conservatory’s obligation to potentially investigate the matter, but it may briefly delay the timing of the investigation if a law enforcement agency requests that the Conservatory delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct. The Conservatory will typically not consider a criminal proceeding on the same facts in its process because the Conservatory

does not use the same process or standard of proof as a criminal process. Typically, the Conservatory will only inquire about criminal processes if they impact an individual's ability to access or utilize the Conservatory's process. In no instance will a concurrent criminal proceeding, by itself, lead to an adverse inference against the Responding Party.

- D. The Title IX Officer will also discuss the next steps in terms of formally reporting allegations of sexual misconduct. If the Reporting Party wishes to move forward with a formal complaint under this Policy, the Reporting Party must provide a statement of allegations in writing. If, at this time, the Reporting Party requests that the process not move forward or move forward under a different policy, the Conservatory will weigh that request against the obligation to address any risk of harm to the Reporting Party or other individuals in the community given the nature of the incident. The Conservatory reserves the right to move forward with a formal complaint process unilaterally by signing a complaint or statement of allegations against another party. This will be utilized in limited situations in which the Conservatory has a concern related to the safety of the broader community. In such situations, the Conservatory is not a party and will provide notice, as set forth below, to both the Reporting and Responding Party
- E. Upon reviewing any written complaint materials, if the Title IX Officer determines that the conduct would, if proven, be prohibited by this Policy, it will move to the next phase of this process. If the conduct, if proven, would not implicate this Policy, the Title IX Officer may dismiss the matter without limiting the individual's ability to provide additional information, or the Title IX Officer may refer the matter directly to the staff that is charged with executing any other relevant policy that may be implicated. For example, a claim of harassment that is based on race or disability status, even if proven, may not violate the Title IX Policy. The Conservatory could, in that circumstance, refer the matter directly to the process prohibiting general discrimination and harassment. The Title IX Officer also has sole discretion to include behavior that may fall outside of the range of behavior prohibited in this Policy, however, any behavior that is included within the formal complaint process must have certain factual overlap and will be entitled to the process set forth below even if the behavior would be subject to a lower review process through another policy. If, lesser conduct is included and then the Title IX prohibited conduct is dismissed for any reason, the Title IX Officer has the discretion to refer any remaining matters back to the original process that they would have fallen under if not for the consolidation with the Title IX matter.

## 2. The Investigation Phase

- A. **Notice of an Investigation.** If it is determined that an investigation will begin, the Title IX Officer will prepare a written notice to both parties that will include a description of the allegations as they are understood at the time and including the name(s) of the parties, the date and location of the conduct in question, the allegations and the portions of the policy that are alleged to have been violated, any interim measures in place that either party must be made aware, and a statement that the Responding Party is presumed not responsible for the alleged conduct. This written notice does not constitute a finding or a determination of responsibility. Further, the written notice will be updated or amended if new allegations are raised by either party and accepted for investigation.
- B. **Information about Advisors in Connection with this Policy.** In connection with an allegation of sexual misconduct, as defined in the [Definitions section of this Policy](#), each party may have a single advisor of their choice present during any formal disciplinary proceeding, including any related meeting, interview, or hearing, held pursuant to the Title IX Policy. Except to the extent expressly permitted in the hearing process outlined below, the advisor may advise their respective party privately, but cannot act as a speaking advocate at a meeting. Conservatory staff and internal/external investigators may delay or terminate meetings, remove or dismiss advisors, and/or proceed with the investigation if an advisor is disruptive or otherwise refuses to comply with the requirements of this policy. An advisor is subject to the same confidentiality expectations applicable

to others in attendance as outlined in the Student Handbook. Accommodations, including scheduling of interviews or reviews, generally will not be made for any advisors if they unduly delay the process. The advisor is not permitted to attend a meeting or proceeding without the party they are advising being present without the prior approval of the Title IX Officer. The Conservatory reserves the right to take appropriate action regarding any advisor who disrupts the process or who does not abide by the rules regarding their participation.

- C. **Designation of Investigator.** The Title IX Officer will designate at least one investigator to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the "Investigative Report"). All investigators will be selected from a group of qualified and trained individuals employed by or engaged by the Conservatory for the purpose of conducting investigations under the Title IX Policy. The Title IX Officer will provide the parties with the name of the person(s) assigned to investigate the reported conduct. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Investigator(s), the parties shall inform the Title IX Officer (in writing) of any conflicts of interest with regard to the selected Investigator(s). The Title IX Officer will consider the nature of the conflict and determine if different individuals should be assigned as Investigator(s). The Title IX Officer's decision regarding any conflicts is final. The Title IX Officer may consult with other Conservatory personnel to discuss any conflicts of interest.
- D. **Nature of the Investigation.** The investigation provides an opportunity for fact-finding and will include separate interviews with the reporting party, the responding party, and any relevant witnesses. The Investigator(s) will provide the parties with advance notice of meetings at which their presence is required.
- E. **The Parties' Identification of Potential Witness and Documentation.** The parties have the opportunity (and are expected) to provide the Investigator(s) with the identification of potential witnesses who have specific information about the reported conduct and with whom they would like the Investigator(s) to speak. The parties also have the opportunity (and are expected) to provide the Investigator(s) any documentation or other items or questions they would like to be considered. All information described in this section must be presented to the Investigator(s) in writing and include a brief description as to how the persons, documents, and/or items are relevant to the reported conduct. This information must be provided to the Investigator(s) during the Investigation Phase and without delay upon becoming aware of it. The Investigator(s) will exercise discretion in their determination of what information to consider and which potential witnesses can provide relevant information to the investigation. The Conservatory reserves the right to limit the submission of evidence and information that was within the party's possession or knowledge during the investigative phase if the Conservatory determines that the information was withheld for strategic advantage, *e.g.*, a surprise witness at the hearing. Furthermore, the Conservatory reserves the right to interview any member of the Conservatory community that may have specific information about the incident that has been reported.
- F. **Investigation Prohibitions.** At no point will the investigation require both parties to be in the same room. At no point will either party be permitted to question or cross-examine the other party or any witness directly during the investigation, determination or appeal process. The parties may ask questions of the other party and/or witnesses at the Determination Hearing, described below, but all such questions must be asked through the party's advisor. Additionally, the Investigator(s) will not consider information related to either party's sexual history unless deemed relevant to the incident in question.
- G. **Other Informal Processes.** At any time prior to convening a Determination Hearing, either party may request an informal resolution of a complaint rather than an investigation and/or hearing by contacting the Title IX Officer. The Title IX Officer will assess the request for informal resolution against the severity of the alleged violation and the potential risks to campus community

members. All parties and the Title IX Officer must agree in writing to informal resolution for this option to be used. The Title IX Officer will designate a Conservatory representative or outside service provider to facilitate a dialogue with the parties in an attempt to reach a resolution. The Title IX Officer can end such a process if it becomes unproductive and/or abusive. The allegation will only be deemed resolved when the parties expressly agree to an outcome that is acceptable to them and which is approved by the Title IX Officer in consultation with other appropriate Conservatory administrators. Either party may withdraw from the informal resolution process at any time. The informal resolution process will be conducted in accordance with procedures specified by the Title IX Officer, as determined in his/her sole discretion.

### **3. Investigative Report and Determination of Responsibility by Determination Hearing**

- A. **Content of the Investigative Report.** At the conclusion of the Investigation Phase, the Investigator(s) will prepare an Investigative Report, which should include a summary of the factual information presented during the Investigation Phase, a separate section where the Investigator(s) point out relevant consistencies or inconsistencies (if any) between all sources of information. Attached to the Investigative Report or made available with the Investigative Report, the Investigator will provide any relevant evidence gathered, whether inculpatory (*i.e.*, proving the responsibility of a party) or exculpatory (*i.e.*, proving that a party did not commit the conduct alleged). The Investigative Report will not include a determination as to whether a party has violated the Title IX Policy or what sanctions may be appropriate. These determinations will be made by the Determination Officer, as described below.
- B. **Review by the Parties.** Both parties will be informed of their opportunity to review the entire Investigative Report and that they may submit written comments and/or questions about the content of the Investigative Report to the Investigator(s) within ten (10) calendar days of the date they are notified that the Investigative Report is available for review. This review will take place at a secure location and in a secure manner determined by the Conservatory. The time to submit written comments can be extended for a brief period if the Title IX Officer concludes, in their sole discretion, that the additional time is warranted. In circumstances where an extension is provided to one party, it will be provided to the other party, as well. Likewise, the secure location and manner of reviewing the Investigative Report can be modified if the Title IX Officer deems it necessary and appropriate. Each party may have their advisor present as they review the Investigative Report, but the Conservatory reserves the right to monitor the review or create appropriate procedures to protect the privacy and sensitivity of the materials in question.
1. Photographs or any other copies of the Investigative Report are not allowed by either party or advisor. The comments submitted by the parties may not exceed ten (10) double spaced pages unless a higher page limit is otherwise determined to be necessary and appropriate in the sole discretion of the Title IX Officer. After reviewing the submissions, if any, from the parties, the Investigator(s) may determine that either additional investigation is required or no further investigation is needed. The investigator has the sole discretion to determine if any information submitted is irrelevant and therefore not to be considered and/or will be redacted. If further investigation is conducted, the Investigator(s) will include any additional relevant information in the Investigative Report.
  2. If, at any point in this review process or the prior investigation, it becomes apparent that a witness will not take part and subject themselves to examination in the Determination Hearing described in Section II(E), below, the Investigator may revise the Investigative Report to remove that information so as not to impact the Determination Hearing. If this decision is made prior to the parties' review, it will be noted in a cover memo to the Investigative Report. If the decision is made following the parties' review, it will be

communicated to the parties and they will be informed in writing of any information that will be removed prior to the Determination Hearing.

3. The Investigative Report will then be submitted to the Title IX Officer. Any submissions made by either party pursuant to this section, as well as any other documentation deemed relevant by the Investigator(s), will be attached to the Investigative Report.
- C. **The Determination Hearing: Conflicts and Provision of Investigative Report.** The Title IX Office will inform the parties of the identity of the Determination Officer(s), who may be an internal member of the Conservatory or an external actor retained to be impartial. No later than three (3) calendar days after delivery of the identity of the assigned Determination Officer(s), the Parties should inform the Title IX Officer (in writing) of any conflicts of interest in regard to the selected Determination Officer(s). If a conflict of interest is raised regarding the individual(s) assigned, the Title IX Officer will consider the nature of the conflict and determine if different individual(s) should be assigned to hear the matter. This decision regarding any conflicts is final. The Title IX Officer will then provide the Determination Officer(s) with the Investigative Report and set a subsequent date for the Determination Hearing to meet to determine responsibility.<sup>2</sup>
- D. **Review and Determination by the Determination Officer.** The Determination Officer will make a determination as to whether or not the Responding Party is responsible for violating the Title IX Policy by having engaged in some or all of the reported conduct. The Determination Officer has the authority to accept the Investigative Report without seeking additional investigation, or to ask the Investigator(s) to conduct additional investigation on specific points prior to the hearing. If further investigation is required, the information learned will be conveyed to the parties at least five (5) days prior to the hearing.
- E. **Hearing Process.** Any formal complaints filed under this Policy are adjudicated through live hearings that can be conducted in person or virtually, as required by federal mandate. The following are the roles and processes to be followed during the hearing.
1. The Determination Officer(s) will preside over the hearings and make the decision by a preponderance of the evidence as to whether or not the Responding Party violated the policy provisions at issue. The Determination Officer(s) have broad authority to determine the process, timing, and conduct of a hearing. For example, the Determination Officer(s) will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and what cross-examination questions will or will not be permitted. If an additional professional is specified to assist with these decisions, the parties will be informed and the feedback will be considered a recommendation to be approved by the decision maker.
  2. Each party may have an advisor of their choice present at a hearing for the limited purpose of conducting cross-examination on behalf of that party. Advisors may be, but are not required to be, attorneys. If a party does not have an advisor of their choice present at a hearing, the Conservatory will, without fee or charge to the party, provide an advisor, who may or may not be an attorney. No later than five (5) business days before the hearing, parties should inform the Title IX Officer of the identity of any advisor who will accompany

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<sup>2</sup> The Conservatory will typically utilize one individual to serve as the Determination Officer. That individual will preside over hearings and make relevant judgment calls regarding evidence and the propriety of questions. The Conservatory reserves the right to change the composition of this role to include up to three individuals, as well as one external individual to make recommendations to the Determination Officer or Determination Panel as to evidentiary decisions.

them to the hearing, so that the Conservatory will know whether or not it needs to arrange for a Conservatory-provided advisor.

3. At a time and manner deemed appropriate by the Determination Officer(s), the advisor for each party will be permitted to ask the other party and any witnesses all relevant cross-examination questions and follow-up questions, including those challenging credibility. Except for that limited role, advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they delay the process. The Conservatory reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the appointment of an alternate Conservatory-provided advisor.
4. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Reporting Party's prior sexual behavior are offered to prove that someone other than the Responding Party committed the conduct alleged by the Reporting Party, or if the questions and evidence concern specific incidents of the Reporting Party's prior sexual behavior with respect to the Responding Party and are offered to prove consent.
5. Information protected under a legally recognized privilege (e.g., privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), are not relevant unless the person holding the privilege has waived the privilege.
6. At the request of either party, the Conservatory will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at Conservatory's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
7. If a party or witness does not submit to cross-examination at the live hearing, the Determination Officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Determination Officer will not draw an inference about the determination regarding responsibility based *solely* on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
8. If the Determination Officer determines that a party is responsible for violating this Policy, he or she may request from the Conservatory information on prior sanctioning decisions so that the Determination Officer can apply a consistent sanction in the matter at hand.
9. Conservatory will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. It will not be provided for distribution and Conservatory will provide the same protective measures as used in Section 3(B) regarding review of investigative reports.

- F. **Notification of Investigation Outcome.** The Title IX Officer will inform the parties simultaneously and in writing of (i) the outcome of the disciplinary proceeding; and (ii) the procedures for either party to appeal the result of the disciplinary proceeding.

#### 4. Appeals

- A. The following process applies to all appeals. Within five (5) calendar days of the delivery of the decision, either party may appeal the decision by submitting to the Title IX Officer a letter stating why they believe the decision was inappropriate. A party may only appeal on the following grounds:
- Procedural error that materially prejudiced the findings/outcome.
  - Newly discovered material information that was not known/available and which likely could have changed the finding of responsibility or the sanction imposed had it been available.
  - Bias or a conflict of interest with regard to the Title IX Officer, Investigator(s), or Determination Officer(s) that materially impacted the outcome or the sanction.
- B. The party submitting the appeal must set forth in detail the grounds for review and must attach all materials that they wish to have considered in the appeal process. The Title IX Officer will provide a copy of the appeal to the other party, at which time they may provide a written response if they choose.
- C. The Appellate Officer(s): The Title IX Officer will provide both parties with the names of the Appellate Officer(s) for their case.<sup>3</sup> As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Appellate Officer(s), the parties should inform the Title IX Officer in writing of any conflicts of interest in regard to the assigned. The Title IX Officer will consider the nature of the conflict and determine if different individual(s) should be assigned to review the appeal.
- D. Sanctions of all types may be imposed while an appeal is pending at the sole discretion of the Conservatory.

#### 5. Additional Issues

- A. **Disability Accommodations.** The Conservatory is committed to ensuring that all community members, and applicants, have an equal opportunity to participate in all of its programs and activities. If any person requires an accommodation because of disability to access any part of this process, they may make that request to the Dean of Students. Any accommodations will be provided in consult with the Title IX Officer to ensure it does not impact the rights or protections of any party or witness.
- B. **Duty of Honesty.** All parties and witnesses are obligated to be completely honest during the course of the entire process set forth in this Policy. Any person who knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process may be subject to separate disciplinary action. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation of violation of the Policy.
- C. **Duty of Cooperation.** All parties and witnesses are obligated to cooperate with the Title IX Officer and any persons charged with implementing the Policy. Any person who knowingly interferes with

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<sup>3</sup> The Conservatory reserves the right to assign one or up to three individuals, who may be internal or external actors, to review the appeal. This decision will typically be made based on the individual claims investigated, the length or complexity of the factual record, and the specific challenges raised on appeal.

the actions taken to implement the reporting, investigation, or resolution of matters under the Policy may be subject to separate and/or additional disciplinary action. Please note that the Duty of Cooperation will not be utilized to undermine an individual's decision not to take part in this process if it would force them to forfeit any constitutional rights in a criminal investigation involving the same or similar facts and circumstances.

- D. **Special Situations.** The Conservatory retains the right to determine, in its sole discretion, if it will address a report of conduct under this Policy administratively and outside of the process described herein when the safety of the Conservatory community is at risk, if there are extenuating circumstances involving either of the parties, or if the Title IX Officer, in consultation with appropriate administrators, determines it is in the best interest of the Conservatory and/or the Conservatory community to do so. If the Conservatory utilizes this provision to alter the process set forth in this Policy, it will clearly communicate changes to the parties in a reasonable and timely manner.
- E. **Delegation.** Where the Title IX Officer or any other Conservatory official or employee is listed as the designated point of contact for any role in the Policy, the Title IX Officer may designate another qualified member of the Conservatory community or an external actor to assume the role at issue, as necessary and appropriate.
- F. **Withdrawal While Charges Pending.** Should a Responding Party-withdraw from NEC while charges are pending, the investigative process will proceed in the student's absence to a reasonable resolution. The student will not be permitted to return to NEC unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved. In the employment context, should an employee-Responding Party decide to resign from NEC while charges are pending, the investigation process will proceed in the employee's absence to a reasonable resolution. The employee will not be permitted to reapply for new employment with NEC unless all sanctions have been satisfied. If a Reporting Party withdraws, NEC will review the applicable standing requirements set forth by the U.S. Department of Education to determine whether the matter may proceed.
- G. **Respect for Privacy.** NEC values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to the Policy. The U.S. Department of Education has provided guidance indicating that there are situations in which it may be necessary for an institution to override a request for privacy or confidentiality in order to meet its obligations under the law. In the event circumstances result in NEC overriding a request for privacy or confidentiality to meet its obligations, it will do so with the utmost sensitivity and respect for the circumstances and the individuals involved.
- H. **Recording the Proceedings.** The Parties are not permitted to make individual video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under the Policy or these procedures or the Investigative Report. The Title IX Coordinator may make exceptions to this prohibition in limited circumstances if he or she concludes, in his or her sole discretion, that a recording is warranted, and upon written request of the Party seeking the recording that explains the need for the recording. The hearing process described above will be recorded by NEC and the recording will only be shared as set forth in this Policy.
- I. **Responding Party Voluntary Agreement to Policy Violation.** At any point prior to the conclusion of the investigation, a Respondent may agree in writing to the alleged violation(s) of the Policy and may offer a proposed sanction. It is within NEC's sole discretion to accept the admission or the proposed sanction or assign a different sanction.

## **Definitions**

The following definitions supplement the New England Conservatory's Title IX Sexual Misconduct Policy ("Title IX Policy") and the Gender-Based Misconduct Policy ("GBM Policy"). Collectively, these two policies will be referred to as the "Policies."

The Conservatory reserves the right to update the definitions in this document to create more clarity for our community. If an updated definition changes any of the listed prohibited conduct, the Conservatory will communicate that to the parties if relevant to any pending proceeding. Similarly, the Conservatory may be required to update or change such definitions in response to state and federal laws. Accordingly, please ensure that you check back to the [Definitions section](#) to make sure you have the most updated definitions. If you have any questions, regardless of whether you are involved in a process under either Policy, please contact:

Nick Macke, Title IX Coordinator  
Office of Human Resources  
St. Botolph Building, room 203  
nick.macke@necmusic.edu  
617-585-1229

## **Actual Knowledge or Notice to the Conservatory**

The Conservatory has actual notice of alleged Title IX prohibited conduct only if a report concerning the conduct is made to the Conservatory's Title IX Coordinator, a Deputy Title IX Coordinator, or to one of the following Conservatory officials who have authority to institute corrective measures on the Conservatory's behalf:

- Director of Human Resources
- Dean of Students

## **Advisor**

A person chosen by a party, who may but need not be an attorney, who provides support and advice to the party during any stage of the process set forth in the Title IX Policy or the GBM Policy. Any person serving as a party's advisor is prohibited from publicly disclosing private information learned during this process, including information protected under the Family Educational Rights and Privacy Act ("FERPA") or other state or federal laws. Further, parties and advisors are expected to maintain the privacy and respect the privacy concerns of all parties and witnesses to the greatest extent possible. If any advisor is concerned about violating this assurance of privacy to gather evidence, they should raise such concerns with the Title IX Officer immediately so that it can be appropriately addressed to protect the sensitivity of the information without limiting the ability of either party to find and present relevant evidence.

## **Consent and Related Concepts**

The Conservatory defines consent and the related concepts as follows:

- **Consent**
  - Sexual consent is when all parties agree to engage in sexual activity. Consent should always be mutual, voluntary and given without pressure, intimidation, or fear.
  - Consent must be freely and affirmatively communicated in order to participate in sexual activity or behavior. It can be expressed either by words or clear, unambiguous actions. It is the responsibility of the person who wants to engage in sexual activity to ensure consent of their partner(s).
  - Consent must be obtained at each step and be present throughout the sexual activity. A participant can withdraw consent or communicate that they no longer consent to continuing the

activity. If there is confusion as to whether anyone has consented or continues to consent to sexual activity, it is essential that the participants stop the activity until the confusion is clearly and mutually resolved.

- Silence, lack of protest, or lack of resistance does not indicate consent.
- Consent is not present if it results from the use of physical force, threat of physical force, intimidation, coercion (see below), incapacitation (see below), or any other factor that would eliminate an individual's ability to exercise free will to choose whether or not to have sexual contact.
- A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, a willingness to engage in sexual activity must be freely and affirmatively communicated each time.

- **Coercion**

- Coercion is the use or attempted use of pressure and/or oppressive behavior, including express or implied threats, intimidation, or physical force, which places a person in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct cannot amount to coercion unless they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity. Coercion also includes administering or pressuring another to consume a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.

- **Incapacitation**

- Incapacitation is defined as the inability, temporarily or permanently, to give consent, because an individual is mentally and/or physically helpless, unconscious, or unaware that the sexual activity is occurring. This may or may not be due to alcohol or other drugs (see below).
- An individual who is incapacitated cannot consent to sexual activity.

- **Alcohol or Other Drugs**

The Conservatory considers any sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, misconduct, or violence and does not diminish one's responsibility to obtain consent.

If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

- The use of alcohol or drugs can limit a person's ability to freely and clearly give consent. Similarly, the use of alcohol or drugs can create an atmosphere of confusion over whether or not consent has been freely and clearly sought or given. It is especially important that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.
- Warning signs of incapacitation may include, but are not limited to, one or more of the following: slurred speech, vomiting, unsteady gait, combativeness, emotional volatility, and/or sleeping.

- The perspective of a reasonable person will be the basis for determining whether a Responding Party (see below) should have been aware of the amount of the ingestion of alcohol or drugs by the reporting party, or of the extent to which the use of alcohol or drugs impacted a Reporting Party's ability to give consent.
  - For example, an individual who is in a blackout may appear to act normally and be giving consent, but may not actually have conscious awareness or the ability to consent to or later recall the events in question. The extent to which a person in this state affirmatively gives words or actions indicating a willingness to engage in sexual activity (and the person reasonably could not have known of the person's level of alcohol consumption and/or level of impairment) must be evaluated in determining whether consent has been given.

### **Educational Program or Activity**

Locations, events, or circumstances in which the Conservatory exercises substantial control over the location or context in which the conduct occurs, as well as in any building owned or controlled by a student organization that is officially recognized by the Conservatory.

### **Formal Complaint**

A document filed by a Reporting Party alleging that another individual engaged in conduct prohibited by the Title IX Policy or the GBM Policy (see Section Two, below) and requesting that the Conservatory investigate the allegation. In exceptional situations, the Title IX Officer may sign a complaint in place of a Reporting Party. If the Title IX Officer signs a formal complaint, the Title IX Officer is not a party to a matter and the party who has standing to be a Reporting Party under the Title IX Policy or the GBM Policy shall receive all requisite rights under the appropriate policy. Similarly, the Responding Party will receive the name of the Reporting Party and other information that constitutes requisite notice.

### **Parties**

Both the Reporting Party and the Responding Party. Note that the Conservatory will typically address communications to the parties and not to any advisor (even an attorney-advisor) or parent.

### **Standard of Proof: Preponderance of the Evidence**

The Conservatory uses the preponderance of the evidence standard (*i.e.*, it is more likely than not that the reported incident and/or behavior violated Conservatory sexual harassment and/or violence policies). Therefore, all findings and determinations of responsibility under the Title IX Policy or the GBM Policy will be made using this preponderance of the evidence standard. Please note:

- The preponderance of the evidence standard is not the standard used for criminal culpability in most jurisdictions and a determination of responsibility under the Title IX Policy or the GBM Policy does not equate with a finding of a violation of criminal laws;
- Conversely, lack of a prosecution, dismissal, or lack of a criminal conviction does not necessarily imply that the Conservatory's Title IX Policy was not violated. The two procedures are significantly different and utilize different standards for determining violations.

### **Relevant**

As used in these procedures, "relevant" refers to a fact, witness, or other piece of information that a reasonable person could conclude makes a material disputed fact or event more or less likely to be true. Information about a Reporting Party's sexual predisposition or prior sexual behavior is generally not considered relevant and will not be considered in the process. An example where information about past sexual behavior may be considered relevant is if offered to prove that someone other than the Responding Party committed the conduct.

### **Reporting Party**

Under the Title IX Policy, a Reporting Party is a person who, at the time they file a Formal Complaint, is currently participating in, or attempting to participate in, the Conservatory's domestic educational programs or activities and who alleges they experienced prohibited conduct, as defined below. If an individual is a student or employee at another institution and makes an allegation against an individual who is a student or employee at the Conservatory, the Title IX Officer may exercise discretion in signing a complaint for the aggrieved party. In such situations, the parties will be duly noticed in accord with the Title IX Policy and the Conservatory will not be considered a party to the matter, though it will maintain the burden of proving that any individual violated the Title IX Policy.

The Conservatory retains discretion to waive all or some of these requirements under the GBM Policy. For example, while the Title IX Policy may not be applied to behavior that occurs overseas pursuant to the Title IX regulations, the GBM Policy may be utilized in such circumstances.

### **Responding Party**

A person reported to be the perpetrator of conduct that could violate a form of prohibited conduct set forth in Section Two, below, or any other form of conduct consolidated into the process set forth in the Title IX Policy.

### **Sanctions**

Punitive or educational measures imposed by the Conservatory in response to a determination that a respondent has violated the Title IX Policy, the GBM Policy, or another Conservatory policy. Sanctions may include, but are not limited to: expulsion, termination, suspension, probation, reprimand, warning, restitution, education/counseling requirement; restrictions on participation in a program or activity; loss of privileges; loss of leadership opportunities or positions; housing restriction; and/or restrictions on employment by the Conservatory. If a Responding Party is found to have violated the Title IX Policy or the GBM Policy, a determination of appropriate sanctions will include consideration of the nature and circumstances of the misconduct; the impact of the misconduct on the Reporting Party and/or on others in the Conservatory community; the disciplinary history of the Responding Party; and any other mitigating or aggravating circumstances.

### **Supportive Measures**

Non-disciplinary, non-punitive individualized services, offered as appropriate, as reasonably available, and without fee or charge to either the Reporting Party or the Responding Party before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to restore or preserve equal access to the Conservatory's educational programs or activities, and they will be designed so as not to unreasonably burden the other party. Supportive measures may include but are not limited to: counseling; academic accommodations, such as extensions of deadlines or other course-related adjustments; course changes or drops; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the campus; and no trespass notices, among others. Factors to be considered in determining reasonable supportive measure may include the following:

- the specific need expressed by the party;
- the burden on the non-requesting party;
- the severity and/or pervasiveness of the allegations;
- whether the parties share the same residence hall, dining hall, class, extracurricular activities, transportation and/or job location; and
- whether other judicial measures have been taken to protect a party or the parties.

## Appendix III: Gender-Based Misconduct Policy

Revised August 2020

See also <https://necmusic.edu/gender-based-misconduct-policy>

### **New England Conservatory's Gender-Based Misconduct Policy**

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New England Conservatory (NEC) is committed to providing a safe learning and working environment. We comply with all state and federal guidelines relating to sexual misconduct, including Title IX of the Higher Education Amendment Act (1972), the Violence Against Women Act (1994 and 2013), and the Campus Sexual Violence Elimination Act (2013). This policy applies to allegations of gender-based misconduct at NEC that do not apply to Title IX of the Educational Amendments of 1972, and applies to all members of the NEC community. Allegations of gender-based misconduct involving any member of the NEC community should be reported to a Title IX Officer:

Nick Macke, Title IX Coordinator  
Office of Human Resources  
St. Botolph Building, room 203  
617-585-1229

### **PROHIBITED CONDUCT UNDER THE GENDER-BASED MISCONDUCT POLICY AND/OR THE TITLE IX SEXUAL MISCONDUCT POLICY**

#### **Sexual Misconduct**

The Conservatory prohibits all forms of sexual misconduct. Sexual misconduct refers to a broad spectrum of behavior encompassing sexual harassment and all forms of non-consensual sexual activity. Sexual misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientation, and does not discriminate by racial, social, or economic background. The Conservatory will utilize this general term in both its [Title IX Policy](#) as well as its [GBM Policy](#), as appropriate.

#### **Sexual Assault**

Having or attempting to have sexual intercourse or sexual contact with another individual without consent. This includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where an individual does not consent (*see* definition for "Consent" above) to the sexual act, or where an individual is incapacitated. Sexual assault includes the following:

- Penetrating or attempting to penetrate another individual without their consent. This includes vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.
- Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth, or any other part of the body that is touched in a sexual manner.

*\*Sexual Assault will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

#### **Sexual Exploitation**

An act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any non-legitimate purpose.

Examples include, but are not limited to: observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved; non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved; prostituting another individual; knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

*\*Sexual exploitation is prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is consolidated with other forms of Title IX prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.*

### **Intimate Partner Violence**

Intimate partner violence, also referred to as dating violence, domestic violence, or relationship violence, includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual or dating relationship with that person. It may involve one act or an ongoing pattern of behavior. Intimate partner violence can encompass a broad range of behavior, including, but not limited to threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and does not discriminate by racial, social, or economic background.

The Conservatory will not tolerate intimate partner violence of any form. The Conservatory also recognizes that certain forms of sexual harassment, sexual assault, sexual exploitation, stalking, harm to others, emotional and psychological abuse, harassing conduct, and retaliation may all be forms of intimate partner violence when committed by a person who is or has been involved in a sexual, dating or other social relationship of a romantic or intimate nature with the reporting party. In such situations, all potential charges may be included.

*\*Intimate Partner Violence will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

### **Pregnancy and Lactation Discrimination**

Individuals that are pregnant, have given birth, or have related issues (including lactation) may request a reasonable accommodation to enable them to attend school and/or perform their job. If an individual believes that they were discriminated against because of any of these issues or other related issues, that could violate the GBM Policy.

### **Sexual Harassment**

Sexual harassment is a form of discriminatory harassment occurring within an employment or educational context that federal and state law addresses with very specific provisions. In cases where sexual harassment is alleged, the Conservatory has a duty to act promptly, so as to assure that if such harassment is, in fact, occurring or has occurred, corrective action is taken and further harm is prevented.

Unwelcome sexual advances, requests of sexual favors, and/or other verbal or physical contact of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic or employment success (also known as *quid pro quo* harassment),
- submission to or rejection of such conduct by an individual is used as the basis for academic or employment evaluation and decisions affecting such an individual (also known as *quid pro quo* harassment), or
- such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile, or offensive living, learning, or work environment (also known as the creation of a hostile environment).

The effect of sexual harassment will be evaluated based on the perspective of a reasonable person in the position of a Reporting Party. A single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical. However, under the new federal regulations, behavior must be severe and pervasive, as well as subjectively and objectively offensive. That is, not only must the Reporting Party feel that the behavior is offensive, but a reasonable person similarly situated must also consider such behavior to be offensive.

*\*Sexual Harassment will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

### **Stalking**

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. This includes cyber-stalking, a particular form of stalking in which electronic media is used to pursue, harass, or make unwelcome contact with another person. Stalking may involve individuals who are known to one another or have an intimate or sexual relationship, or may involve individuals not known to one another.

*\*Stalking will typically be considered under the Conservatory's Title IX Policy unless certain jurisdictional criteria is not met. In those situations, the Conservatory has the discretion to consider such conduct under its GBM Policy.*

### **Retaliation**

Acts or attempts to retaliate or seek retribution against the reporting party, responding party, or any individual or group of individuals involved in the investigation and/or resolution of an allegation; including subjecting a person to an adverse employment or educational action because they made a complaint under any portion of the Title IX Policy or the GBM Policy, or responded to, assisted or participated in any manner in an investigation under either Policy. Any individual or group of individuals, not just a responding party or reporting party, can be guilty of retaliation. Retaliation may include continued abuse or violence and other forms of harassment.

Retaliation allegations may be consolidated with other forms of prohibited conduct defined in this section if the facts and circumstances significantly overlap. If the facts and circumstances do not significantly overlap, then the Conservatory retains discretion to adjudicate the allegation under a different but appropriate policy. For example, if a Responding Party retaliates against a Reporting Party with regard to the filing of a complaint, that behavior could be consolidated with the other prohibited conduct alleged, provided appropriate notice is afforded. On the other hand, if the retaliatory conduct is committed by one of the parties' friend group who are not otherwise subject to a grievance under this Title IX Policy, that behavior could be adjudicated under another student or employee conduct policy which prohibits such behavior.

### **Prohibited Sexual Relations with Students**

No employee shall request or accept sexual favors from, or initiate or engage in a romantic or sexual relationship with, any student of any status at NEC. Unless specific written permission is provided in extremely limited circumstances<sup>4</sup> to be discussed with NEC's Human Resources office, this is an absolute prohibition.

*\*This form of relationship is prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is alleged to be a form of sexual harassment, in which case NEC reserves the right to use its Title IX Policy. NEC also reserves the right to consolidate this form of prohibited conduct with other forms of Title IX*

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<sup>4</sup> NEC requires notice of any existing relationships that may exist, and the factors that NEC will consider in granting permission to continue such a relationship will be extremely fact specific and limited. For example, if an individual was married to a faculty member and decided to return to NEC to pursue a degree opportunity, that factor would be considered but the individuals may still be restricted from providing academic or professional opportunities to each other to avoid the risk of impropriety.

*prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.*

#### **Relationships between Individuals of Different Conservatory Status**

Amorous relationships between individuals of different Conservatory status that occur outside the instructional context can also lead to difficulties. In a personal relationship between an instructor or other faculty or staff member, and an individual for whom the instructor or other faculty or staff member has no current professional responsibility, the instructor or other faculty or staff member should be sensitive to the possibility that he or she may unexpectedly be placed in a position of responsibility for that individual's instruction or evaluation. This could involve being called upon to write a letter of recommendation or to serve on an admissions or selection committee involving the individual. In addition, one should be aware that others may speculate that a specific power differential exists even when there is none, giving rise to assumptions of inequitable academic or professional advantage for the student involved. Although graduate students, teaching fellows, tutors, and undergraduate course assistants may be less accustomed than Faculty members to thinking of themselves as being in a position of greater authority by virtue of their professional responsibilities, they should recognize that they might be viewed as more powerful than they perceive themselves to be. Unless specific written permission is provided in extremely limited circumstances to be discussed with NEC's Human Resources office, this is an absolute prohibition. *\*This form of relationship is also prohibited behavior that will typically be addressed through the Conservatory's GBM Policy unless it is alleged to be a form of sexual harassment, in which case NEC reserves the right to use its Title IX Policy. NEC also reserves the right to consolidate this form of prohibited conduct with other forms of Title IX prohibited conduct in this section. In those situations involving consolidation under the Title IX Policy, the Conservatory requires a substantial factual overlap with the allegations of the specific matter at hand before this Title IX Policy will be utilized.*

#### **Other Prohibited Forms of Sex Discrimination**

This includes forms of different treatment on the basis of sex (including on the basis of sexual orientation, gender identity, and/or gender expression) that is not otherwise set forth as Prohibited Conduct (above). Such conduct will be treated under NEC's GBM Policy unless the Title IX Coordinator, in consultation with appropriate Conservatory officials, determines otherwise.

#### **PROCESS**

The following is the process by which the New England Conservatory will investigate a violation of its Gender Based Misconduct Policy ("GBM Policy"). The conduct prohibited by this GBM Policy, as well as other helpful definitions, can be found in the [Definitions section](#). Please also review the Conservatory's [Title IX Sexual Misconduct Policy](#). While the Title IX Policy and the GBM Policy have similar processes, there are also important differences that are based on the federal regulations. If you are unclear about any of the provisions below and would like to get more information, you may speak on a non-confidential basis with the Title IX Officer:

Nick Macke, Title IX Coordinator  
Office of Human Resources  
St. Botolph Building, room 203  
nick.macke@necmusic.edu  
617-585-1229

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## 1. Initial Steps

After receiving a report of conduct that could fall under the GBM Policy, the Title IX Officer<sup>5</sup> will take a number of initial steps; these initial steps are not an investigation. Rather, these initial steps will enable the Conservatory to assess the need to take any immediate action to address the safety and health needs of the parties involved in a matter, to help the parties determine the next appropriate steps, whether under this GBM Policy or a referral to another Conservatory policy.

These initial steps may include, but are not limited to, the following:

- A. The Title IX Officer will contact the party making the initial allegation (the “Reporting Party”) and encourage them to meet virtually or in person to discuss the nature and circumstances of the reported conduct, review relevant documentation that is available, and describe the various options available to them.
- B. Regardless of whether a Reporting Party decides to participate in an adjudication process, they may be entitled to supportive measures. Supportive measures, as defined in the [Definitions section](#) of this Policy, are non-disciplinary, non-punitive individualized services, offered as appropriate, as reasonably available, and without fee or charge to either the Reporting Party or the Responding Party before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to restore or preserve equal access to Conservatory’s educational programs or activities, and they will be designed so as not to unreasonably burden the other party. Supportive measures may include, but are not limited to, the following: counseling; academic accommodations, such as extensions of deadlines or other course-related adjustments; course changes or drops; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate; changes in work locations; leaves of absence; increased security and monitoring of certain areas of the campus; and no trespass notices, among others. Factors to be considered in determining reasonable supportive measure may include the following:
  - the specific need expressed by the requesting party;
  - the burden of the measure, if any, on the other party;
  - the severity and/or pervasiveness of the allegations;
  - whether the parties share the same residence hall, dining hall, class, performing or practice spaces, extracurricular activities, transportation and/or job location; and
  - whether other judicial measures have been taken to protect a party or the parties.

The decision to impose supportive measures or any interim restrictions will be communicated by the Title IX Officer in writing. The Conservatory will seek to be transparent with regard to the supportive measures provided to the parties and which impact both parties. The Conservatory may be limited in certain situations when student or employee privacy issues prevent disclosures.

- C. The Title IX Officer will explain the GBM Policy and the different options and protections available to the parties. The Title IX Officer will also explain the right to report and the right to delay or decline to report the matter to the Conservatory. The parties may choose to report to such conduct to local law enforcement if the conduct is potentially criminal in nature. Such a report will not change the Conservatory’s obligation to potentially investigate the matter, but it may briefly delay the timing of the investigation if a law enforcement agency requests that the Conservatory delay its process for a

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<sup>5</sup> Note: where the Title IX Officer is listed as the point of contact for any role in the GBM Policy, they may designate a Deputy Title IX Officer or another qualified member of the Conservatory community to assume the role, as necessary and appropriate.

reasonable amount of time to allow it to gather evidence of criminal conduct. The Conservatory will typically not consider a criminal proceeding on the same facts in its process because the Conservatory does not use the same process or standard of proof as a criminal process. Typically, the Conservatory will only inquire about criminal processes if they impact an individual's ability to access or utilize the Conservatory's process. In no instance will a concurrent criminal proceeding, by itself, lead to an adverse inference against the Responding Party.

- D. The Title IX Officer will also discuss the next steps in terms of formally reporting allegations of sexual misconduct. If the Reporting Party wishes to move forward with a formal complaint under this Policy, the Reporting Party must provide a statement of allegations in writing. If, at this time, the Reporting Party requests that the process not move forward or move forward under a different policy, the Conservatory will weigh that request against the obligation to address any risk of harm to the Reporting Party or other individuals in the community given the nature of the incident. The Conservatory reserves the right to move forward with a formal complaint process unilaterally by signing a complaint or statement of allegations against another party. This will be utilized in limited situations in which the Conservatory has a concern related to the safety of the broader community. In such situations, the Conservatory is not a party and will provide notice, as set forth below, to both the Reporting and Responding Party
- E. Upon reviewing any written complaint materials, if the Title IX Officer determines that the conduct would, if proven, be prohibited by this Policy, it will move to the next phase of this process. If the conduct, if proven, would not implicate this Policy, the Title IX Officer may dismiss the matter without limiting the individual's ability to provide additional information, or the Title IX Officer may refer the matter directly to the staff that is charged with executing any other relevant policy that may be implicated. For example, a claim of harassment that is based on race or disability status, even if proven, may not violate the GBM Policy. The Conservatory could, in that circumstance, refer the matter directly to the process prohibiting general discrimination and harassment.

## 2. The Investigation Phase

- A. **Notice of an Investigation.** If it is determined that an investigation will begin, the Title IX Officer will prepare a written notice to both parties that will include a description of the allegations as they are understood at the time and including the name(s) of the parties, the date and location of the conduct in question, the allegations and the portions of the policy that are alleged to have been violated, any interim measures in place that either party must be made aware, and a statement that the Responding Party is presumed not responsible for the alleged conduct. This written notice does not constitute a finding or a determination of responsibility. Further, the written notice will be updated or amended if new allegations are raised by either party and accepted for investigation.
- B. **Information about Advisors in Connection with this Policy.** In connection with an allegation of sexual misconduct, as defined in the [Definitions section](#) of this Policy, each party may have a single advisor of their choice present during any formal disciplinary proceeding, including any related meeting, interview, or hearing, held pursuant to the GBM Policy. Advisors may advise their respective party privately, but cannot act as a speaking advocate at a meeting. Conservatory staff and internal/external investigators may delay or terminate meetings, remove or dismiss advisors, and/or proceed with the investigation if an advisor is disruptive or otherwise refuses to comply with the requirements of this Policy. An advisor is subject to the same confidentiality expectations applicable to others in attendance as outlined in the Student Handbook. Accommodations, including scheduling of interviews or reviews, generally will not be made for any advisors if they unduly delay the process. The advisor is not permitted to attend a meeting or proceeding without the party they are advising being present without the prior approval of the Title IX Officer. The Conservatory reserves the right to take appropriate action regarding any advisor who disrupts the process or who does not abide by the rules regarding their participation.

- C. **Designation of Investigator.** The Title IX Officer will designate at least one investigator to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the “Investigative Report”). All investigators will be selected from a group of qualified and trained individuals employed by or engaged by the Conservatory for the purpose of conducting investigations under the GBM Policy. The Title IX Officer will provide the parties with the name of the person(s) assigned to investigate the reported conduct. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Investigator(s), the parties shall inform the Title IX Officer (in writing) of any conflicts of interest with regard to the selected Investigator(s). The Title IX Officer will consider the nature of the conflict and determine if different individuals should be assigned as Investigator(s). The Title IX Officer’s decision regarding any conflicts is final. The Title IX Officer may consult with other Conservatory personnel to discuss any conflicts of interest.
- D. **Nature of the Investigation.** The investigation provides an opportunity for fact-finding and will include separate interviews with the reporting party, the responding party, and any relevant witnesses. The Investigator(s) will provide the parties with advance notice of meetings at which their presence is required.
- E. **The Parties’ Identification of Potential Witness and Documentation.** The parties have the opportunity (and are expected) to provide the Investigator(s) with the identification of potential witnesses who have specific information about the reported conduct and with whom they would like the Investigator(s) to speak. The parties also have the opportunity (and are expected) to provide the Investigator(s) any documentation or other items or questions they would like to be considered. All information described in this section must be presented to the Investigator(s) in writing and include a brief description as to how the persons, documents, and/or items are relevant to the reported conduct. This information must be provided to the Investigator(s) during the Investigation Phase and without delay upon becoming aware of it. The Investigator(s) will exercise discretion in their determination of what information to consider and which potential witnesses can provide relevant information to the investigation. The Conservatory reserves the right to limit the submission of evidence and information that was within the party’s possession or knowledge during the investigative phase if the Conservatory determines that the information was withheld for strategic advantage. Furthermore, the Conservatory reserves the right to interview any member of the Conservatory community that may have specific information about the incident that has been reported.
- F. **Investigation Prohibitions.** At no point will the investigation require both parties to be in the same room. At no point will either party be permitted to question or cross-examine the other party or any witness directly during the investigation, determination, or appeal process. Additionally, the Investigator(s) will not consider information related to either party’s sexual history unless deemed relevant to the incident in question.
- G. **Other Informal Processes.** At any time prior to convening a Determination Panel, either party may request an informal resolution of a complaint rather than an investigation and/or hearing by contacting the Title IX Officer. The Title IX Officer will assess the request for informal resolution against the severity of the alleged violation and the potential risks to campus community members. All parties and the Title IX Officer must agree in writing to informal resolution for this option to be used. The Title IX Officer will designate a Conservatory representative or outside service provider to facilitate a dialogue with the parties in an attempt to reach a resolution. The Title IX Officer can end such a process if it becomes unproductive and/or abusive. The allegation will only be deemed resolved when the parties expressly agree to an outcome that is acceptable to them and which is approved by the Title IX Officer in consultation with other appropriate Conservatory administrators. Either party may withdraw from the informal resolution process at any time. The informal resolution process will be conducted in accordance with procedures specified by the Title IX Officer, as determined in his/her sole discretion.

### 3. Investigative Report and Determination of Responsibility by Determination Panel

- A. **Content of the Investigative Report.** At the conclusion of the Investigation Phase, the Investigator(s) will prepare an Investigative Report, which should include a summary of the factual information presented during the Investigation Phase, a separate section where the Investigator(s) point out relevant inconsistencies or inconsistencies (if any) between all sources of information. Attached to the Investigative Report or made available with the Investigative Report, the Investigator will provide any relevant evidence gathered, whether inculpatory (*i.e.*, proving the responsibility of a party) or exculpatory (*i.e.*, proving that a party did not commit the conduct alleged). The Investigative Report will not include a determination as to whether a party has violated the GBM Policy or what sanctions may be appropriate. These determinations will be made by the Determination Panel, as described below.
- B. **Review by the Parties.** Both parties will be informed of their opportunity to review the entire Investigative Report and that they may submit written comments and/or questions about the content of the Investigative Report to the Investigator(s) within ten (10) calendar days of the date they are notified that the Investigative Report is available for review. This review will take place at a secure location and in a secure manner determined by the Conservatory. The time to submit written comments can be extended for a brief period if the Title IX Officer concludes, in their sole discretion, that the additional time is warranted. In circumstances where an extension is provided to one party, it will be provided to the other party, as well. Likewise, the secure location and manner of reviewing the Investigative Report can be modified if the Title IX Officer deems it necessary and appropriate. Each party may have their advisor present as they review the Investigative Report, but the Conservatory reserves the right to monitor the review or create appropriate procedures to protect the privacy and sensitivity of the materials in question.
1. Photographs or any other copies of the Investigative Report are not allowed by either party or advisor. The comments submitted by the parties may not exceed ten (10) double spaced pages unless a higher page limit is otherwise determined to be necessary and appropriate in the sole discretion of the Title IX Officer. After reviewing the submissions, if any, from the parties, the Investigator(s) may determine that either additional investigation is required or no further investigation is needed. The investigator has the sole discretion to determine if any information submitted is irrelevant and therefore not to be considered and/or will be redacted. If further investigation is conducted, the Investigator(s) will include any additional relevant information in the Investigative Report.
  2. The Investigative Report will then be submitted to the Title IX Officer. Any submissions made by either party pursuant to this section, as well as any other documentation deemed relevant by the Investigator(s), will be attached to the Investigative Report.
- C. **Assigning the Determination Panel.** The Title IX Office will inform the parties of the identity of the Determination Panel, which will typically include between one and three employees of the Conservatory.<sup>6</sup> Students may not serve on a Determination Panel. No later than three (3) calendar days after delivery of the identity of the assigned Determination Panel, the Parties should inform the Title IX Officer (in writing) of any conflicts of interest in regard to the selected Determination Panel member(s). If a conflict of interest is raised regarding any individual assigned, the Title IX Officer will consider the nature of the conflict and determine if different individual(s) should be assigned to hear the matter. This decision regarding any conflicts is final. The Title IX Officer will then provide the Determination Panel with the Investigative Report and set a subsequent date for a meeting to consider the report, interview the parties, and determine responsibility.

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<sup>6</sup> Typically the Determination Panel will include more than one individual. However, in circumstances in which only limited facts are in dispute, the Conservatory reserves the right to utilize a single Determination Panel member.

- D. **Review and Determination by the Determination Panel.** The Determination Panel will make a determination as to whether or not the Responding Party is responsible for violating the GBM Policy by having engaged in some or all of the reported conduct. The Determination Panel has the authority to accept the Investigative Report without seeking additional investigation, or to ask the Investigator(s) to conduct additional investigation on specific points prior to the hearing. If further investigation is required, the information learned will be conveyed to the parties at least five (5) days prior to the convening of the Determination Panel.
- E. **Notification of Investigation Outcome.** The Title IX Officer will inform the parties simultaneously and in writing of (i) the outcome of the disciplinary proceeding; and (ii) the procedures for either party to appeal the result of the disciplinary proceeding.

#### 4. Appeals

- A. The following process applies to all appeals. Within five (5) calendar days of the delivery of the decision, either party may appeal the decision by submitting to the Title IX Officer a letter stating why they believe the decision was inappropriate. A party may only appeal on the following grounds:
- Procedural error that materially prejudiced the findings/outcome.
  - Newly discovered material information that was not known/available and which likely could have changed the finding of responsibility or the sanction imposed had it been available.
  - Bias or a conflict of interest with regard to the Title IX Officer, Investigator(s), or Determination Panel that materially impacted the outcome or the sanction.
- B. The party submitting the appeal must set forth in detail the grounds for review and must attach all materials that they wish to have considered in the appeal process. The Title IX Officer will provide a copy of the appeal to the other party, at which time they may provide a written response if they choose.
- C. The Appellate Officer(s): The Title IX Officer will provide both parties with the names of the Appellate Officer(s) for their case.<sup>7</sup> As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Appellate Officer(s), the parties should inform the Title IX Officer in writing of any conflicts of interest in regard to the assigned. The Title IX Officer will consider the nature of the conflict and determine if different individual(s) should be assigned to review the appeal.
- D. Sanctions of all types may be imposed while an appeal is pending at the sole discretion of the Conservatory.

#### 5. Additional Issues

- A. **Disability Accommodations.** The Conservatory is committed to ensuring that all community members, and applicants, have an equal opportunity to participate in all of its programs and activities. If any person requires an accommodation because of disability to access any part of this process they may make that request to the Dean of Students or the Director of Human Resources. Any accommodations will be provided in consult with the Title IX Officer to ensure it does not impact the rights or protections of any party or witness.

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<sup>7</sup> The Conservatory reserves the right to assign one or up to three individuals, who may be internal or external actors, to review the appeal. This decision will typically be made based on the individual claims investigated, the length or complexity of the factual record, and the specific challenges raised on appeal.

- B. **Duty of Honesty.** All parties and witnesses are obligated to be completely honest during the course of the entire process set forth in this Policy. Any person who knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process may be subject to separate disciplinary action. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation of violation of the Policy.
- C. **Duty of Cooperation.** All parties and witnesses are obligated to cooperate with the Title IX Officer and any persons charged with implementing the Policy. Any person who knowingly interferes with the actions taken to implement the reporting, investigation, or resolution of matters under the Policy may be subject to separate and/or additional disciplinary action. Please note that the Duty of Cooperation will not be utilized to undermine an individual’s decision not to take part in this process if it would force them to forfeit any constitutional rights in a criminal investigation involving the same or similar facts and circumstances.
- D. **Special Situations.** The Conservatory retains the right to determine, in its sole discretion, if it will address a report of conduct under this Policy administratively and outside of the process described herein when the safety of the Conservatory community is at risk, if there are extenuating circumstances involving either of the parties, or if the Title IX Officer, in consultation with appropriate administrators, determines it is in the best interest of the Conservatory and/or the Conservatory community to do so. If the Conservatory utilizes this provision to alter the process set forth in this Policy, it will clearly communicate changes to the parties in a reasonable and timely manner.
- E. **Delegation.** Where the Title IX Officer or any other Conservatory official or employee is listed as the designated point of contact for any role in the Policy, the Title IX Officer may designate another qualified member of the Conservatory community or an external actor to assume the role at issue, as necessary and appropriate.

## Appendix IV: Court Issued Protective Orders

### **ABUSE & HARASSMENT PREVENTION ORDERS**

There is no charge to get an abuse prevention order.

If you need help with getting an order, the Massachusetts Office for Victim Assistance (<http://www.mass.gov/mova/>) offers a program called SAFEPLAN that provides specially trained and certified advocates to help you in many courts across the state.

There are other programs in some courts that provide people who can help you fill out the forms and go with you to the courtroom. In some cases, the advocate is from the local domestic violence service provider. In other cases, District Attorney Office victim-witness advocates assist people in filing for a 209A order.

A list of domestic violence service providers can be found at Jane Doe, Inc. (<http://www.janedoe.org/>). People at these organizations can tell you if they have court advocates or, if not, how to reach a court advocate.

If you need help immediately such as safety planning or shelter, call the SAFEPLAN hotline at 1-877- 785-2020, which can find you a domestic violence program or shelter near you.

### **HOW TO OBTAIN AN ABUSE PREVENTION ORDER (209A)**

During regular business hours on weekdays, you can go to the Roxbury Trial Court located on 85 Warren Street, Roxbury, MA 02119 (Main Phone: 617-427-7000). Proceed to the Civil Clerk's office and tell them you want to ask for a 209A order. They will give you the forms you need.

If you are in crisis and courts are closed, you can call or go to NEC's Public Safety Department or the City of Boston Police Department (District 4). The police will give you the forms to fill out and then call a judge. If the judge grants the order, it is only temporary until the next court business day. The order given to you by the police will tell you which court to go to and when you need to be at the court.  
(District 4 Police Department: 650 Harrison Avenue)

### **HOW TO OBTAIN A HARASSMENT PREVENTION ORDER (258E)**

There is no charge to get a harassment prevention order. You can go to the Roxbury Trial Court located on 85 Warren Street, Roxbury, MA, 02119, during regular business hours on weekdays (Main Phone: 617-427-7000).

If you are in crisis and courts are closed, you can call or go to NEC's Public Safety Department or the City of Boston Police Department (District 4). The police will give you the forms to fill out and then call a judge. If the judge grants the order, it is only temporary until the next court business day. The order given to you by the police will tell you which court to go to and when you need to be at the court.

To the extent of the victim's cooperation and consent, NEC offices, including Campus Public Safety, The Dean of Students, Residence Life, Office of the Title IX Coordinator, Health Services, Counseling Services, and the Office of Human Resources will work cooperatively to ensure that the complainant's health, physical safety, work and academic status are protected, pending the outcome of a formal internal investigation of the complaint.

For example, if reasonably available, a complainant may be offered changes to academic, living, or working situations in addition to counseling, health services and assistance in notifying appropriate local law enforcement. Below is a list of offices that may assist with an on-campus safety plan:

- Campus Public Safety Department – notifying other law enforcement agencies, collecting evidence, facilitating transportation to the hospital, facilitating restraining orders and/or harassment prevention orders, placing a student on an escort list, facilitating transport to other institutions, will provide you with a full copy of the NEC Notice of Victim’s Rights, and other security and/or case-related services.
- Dean of Students – will assist with change in classroom and curriculum circumstances.
- Residential Life – will work to make changes to student living conditions.
- Title IX Coordinator – will manage NEC’s response and supervise the internal investigation. May meet with the parties involved and provide guidance or answer any questions asked by the parties involved.
- Office of the Registrar – will work with the party involved to change or remove any contact information such as: email address, web page directory information, telephone contact numbers, and picture from the web.

Additionally, Personally Identifiable Information (PII) about the victim will be treated as confidential and only shared with persons with a specific need to know who are investigating/adjudicating the complaint or delivering resources or support services to the complainant. NEC does not publish the name of crime victims nor house PII regarding victims in the campus Public Safety Department’s Daily Crime Log or online.

Victims may request that directory information on file be removed from public sources by request. Contact NEC’s Title IX Coordinator.

On-Campus resources for victims of Title IX and Gender-Based Misconduct:

<b>Organization</b>	<b>Phone Number</b>
NEC Public Safety Department (Non-Confidential Resource)	Public Safety Emergency – 617-585-1777  Routine Calls – 617-585-1255  Anonymous Tip Line – 617-585-1292
Office of Title-IX Coordinator (Non-Confidential Resource)	617-585-1229
Health Services (Confidential Resource)	617-585-1284
Counseling Services (Confidential Resource)	617-585-1284
Office of Residence Life and Housing (Non-Confidential Resource)	617-585-1188

Domestic violence resources in the Boston Area:

<b>Organization</b>	<b>Phone Number</b>	<b>Address</b>
Boston Police, Fire, EMS Emergency	911	
Boston Police Department (D4)	617-466-4855	650 Harrison Ave
Roxbury Trial Court	617-427-7002	85 Warren St, Roxbury, MA
MBTA Transit Police Department	617-222-1000	
SafeLink (statewide hotline)	877-785-2020	

Beth Israel Deaconess Medical Center	617-667-7000	330 Brookline Ave. Boston
Jane Doe Inc.	617-248-0922	
Asian Task Force Against Domestic Violence	617-338-2355	
The Center for Violence and Prevention and Recovery at Beth Israel Deaconess Medical Center	617-667-8141	
The Network/La Red (Lesbian, Bisexual, Transgender)	617-423-SAFE	
Gay Men's Domestic Violence Project	800-832-1901	

## Appendix V: Missing Student Policy

### **Policy**

Safety is a major concern for everyone on campus, and NEC strives to provide an ideal environment for learning, working and living. NEC has instituted the Missing Student Notification Policy to enhance the safety and security of our students.

It is the policy of NEC to carefully investigate any report of a missing student who is enrolled and attending classes at NEC. Missing student investigations will be completed through the cooperation of the Office of Student Services and NEC Public Safety.

In accordance with Federal statutes, if the student is under 18 years of age and not emancipated, NEC must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student.

This Policy applies to all NEC students, whether or not they reside in student housing.

- A resident student will be deemed missing when the student is reported absent from housing without any known reason.
- A residential or commuting student may be deemed missing when the student is reported absent from the campus or from off-campus assignments with no explanation.
- In the event of statements made by a student indicating a threat to self, that student shall be deemed as missing if the student is not in the company of a NEC official or family member.
- Pursuant to 20 U.S.C. § 1092(j) and 34 C.F.R. § 668.46(h), it is required that any missing student report must be referred immediately to NEC's NEC Public Safety at (617) 585-1777,
  - Public Safety will investigate each report and make a determination whether the student is in fact missing in accordance with this policy.

Students have the option to identify a confidential contact person or persons who will be notified within 24 hours in the event that a determination is made that the student is missing. Confidential contact information will be kept separate from general emergency contact information. Only authorized campus officials and law enforcement officers in furtherance of a missing person investigation may have access to this information.

If a missing student is under 18 years of age, and not an emancipated individual, NEC will notify a custodial parent or guardian of the missing student not later than 24 hours after the determination by the NEC Public Safety that the student is missing.

The NEC Public Safety will contact local police and other law enforcement agencies no later than 24 hours after NEC receives a report that any student is missing.

### **OFF-CAMPUS STUDENTS - IN THE EVENT THE POTENTIALLY MISSING STUDENT LIVES OFF-CAMPUS:**

1. Contact the Dean of Students or the Associate Dean of Students.
2. The Dean will call the student on their local phone number.
3. If the student does not answer, the Dean will contact the student's instructors to determine whether or not the student has been attending classes and rehearsals.
4. If the Dean is unable to confirm the student has regularly been attending classes and rehearsals, the Dean will notify NEC Public Safety of the reported student.
5. If the Dean is unable to locate the student within 24 hours, the Dean will call the student's emergency contact. (This information is available in student's confidential file.)

6. If the Dean is unable to locate the student within 48 hours, Public Safety or the Dean will notify the Boston Police.
  - Dean of Students: Nick Tatar at (617) 585-1313
  - Senior Associate Dean of Students: Rebecca Teeters at (617) 585-1311
  - 24-hour Public Safety at (617) 585-1777
  - Director of Facilities and Campus Security: Chris Hayden at (617) 585-1181

**ON-CAMPUS STUDENTS – IN THE EVENT THE POTENTIALLY MISSING STUDENT LIVES ON-CAMPUS:**

1. Contact a Residence Life staff member who will contact the Director of Residence Life and Housing.
2. The Director of Residence Life and Housing will contact the student on their local phone number.
3. If the student does not answer, the Director of Residence Life and Housing will contact the student's roommate (if applicable) to determine the last time the student was seen in the room.
4. The Director of Residence Life and Housing contacts the Dean of Students or the Senior Associate Dean of Students
5. If the student was not seen by his/her roommate within past 24 hours, the Director of Residence Life and Housing will contact the Dean of Students or the Senior Associate Dean of Students to have one of them contact the student's instructors to determine whether or not the student has been attending classes and rehearsals.
6. If the Dean is unable to confirm the student has regularly been attending classes and rehearsals, the Dean or Director of Residence Life and Housing will notify Public Safety of the reported student.
7. If the Dean and the Director of Residence Life and Housing are not able to locate the student within 24 hours, the Dean or Director of Residence Life and Housing will call the student's emergency or missing persons contact. (This information is available in student's confidential file.)
8. If NEC staff members are unable to locate the student within 48 hours, Public Safety or the Dean will notify the Boston Police.
  - Resident Assistant on duty phone (617) 504-4395
  - Director of Residence Life and Housing: Steven Sweat (617) 585-1188
  - 24-hour Public Safety: (617) 585-1777

The institution, by law, must contact the custodial parent or guardian and emergency contact person of a confirmed missing student who is under the age of 18 and not emancipated from their parents within 24 hours of determination that the student is missing.

## Appendix VI: Massachusetts Motor Vehicle Law Requirements

The **Massachusetts Motor Vehicle Law** requires that all out-of-state students, including those who do not bring cars to Massachusetts, sign an acknowledgement that they have been informed of the law.

The Massachusetts Motor Vehicle Law requires out-of-state students bringing vehicles into the Commonwealth of Massachusetts to file a nonresident driver statement with the local police department in which their school is located.

“It is unlawful for a resident student to fail to file a nonresident driver statement with the police department located in the same city or town as the school or college attended, in accordance with Section 3 of Chapter 90 of the Massachusetts General laws. Failure to file such a statement is punishable by a fine not to exceed \$200.”

New England Conservatory, in turn, is required by the Commonwealth to keep a record and provide proof to the state that students have been apprised of the law. Eligible students must formally acknowledge they have been notified of the law by completing an acknowledgement (available in the Office of Student Services) each year they are enrolled at the Conservatory.

### Instructions for complying with the law

- All out-of-state students, including those who do not bring cars to Massachusetts, are required to read and sign the acknowledgment form.
- In addition, **students bringing vehicles** into the Commonwealth of Massachusetts are required to download and complete the **Nonresident Driver Statement** (see below) from the Massachusetts Registry of Motor Vehicles.
- Deliver form (by mail or in person) to the Registrar in the Office of Student Services.
- The Registrar will mail completed forms to the Boston Police Department and will then provide a state-approved decal to the student. This decal must be prominently displayed in the uppermost center portion of the windshield of the student’s vehicle.

School Year Beginning \_\_\_\_\_  
month year



DECAL NUMBER

SCHOOL USE ONLY			
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## NONRESIDENT DRIVER STATEMENT

PLEASE PRINT

Pursuant to the provisions of M.G.L. c.90 § 3, as amended by chapter 46 of the acts of 2003, this form must be completed in quadruplicate by every nonresident enrolled as a student at a public or private school or college in the Commonwealth during any period beginning on September 1<sup>st</sup> of any year and ending on August 31<sup>st</sup> of the following year, who operates a motor vehicle in Massachusetts that is registered in another state or country. This applies to students commuting from out-of-state to a school in Massachusetts and students temporarily residing in Massachusetts, whether living on campus or not. This completed form must be filed with the Police department in the city or town where the school is located. The Police department must provide a copy to the school, the local assessor, and the RMV. The school will issue the required decal, which must be affixed to the uppermost center portion of the windshield. The penalty for a nonresident's failure to comply as required is up to \$200.00.

PART 1: NONRESIDENT STUDENT INFORMATION			
LAST NAME	FIRST	MIDDLE INITIAL	
PERMANENT LEGAL RESIDENTIAL ADDRESS	CITY/TOWN	STATE/ZIP	COUNTRY
RESIDENTIAL ADDRESS WHILE ATTENDING SCHOOL	CITY/TOWN	ZIP	
NOTE: REPORT ANY CHANGE OF PERMANENT OR TEMPORARY ADDRESS TO THE POLICE DEPARTMENT AND THE SCHOOL			
NAME OF SCHOOL/COLLEGE & ADDRESS	CITY/TOWN	ZIP	

PART 2: VEHICLE INFORMATION				
REGISTRATION NUMBER	STATE, PROVINCE, AND COUNTRY OF REGISTRATION	REGISTRATION EXP. DATE		
YEAR	MAKE	MODEL	COLOR	VEHICLE IDENTIFICATION NUMBER
VEHICLE OWNER'S LAST NAME	FIRST	MIDDLE INITIAL		
VEHICLE OWNER'S ADDRESS	CITY/TOWN	STATE		

PART 3: LIABILITY INSURANCE INFORMATION	
This vehicle can only be operated during such time as the owner thereof maintains in full force a policy covering all of the provisions in M.G.L., Ch. 90, Sec 3. Coverage sufficient to allow a "Yes" to both a) and b) is required.	
a) Does this policy provide at least \$20,000 coverage for injury or death to one person and \$40,000 coverage for injury or death to more than one person while the vehicle is being operated on the ways of Massachusetts? <input type="checkbox"/> YES <input type="checkbox"/> NO	
b) Does this policy provide indemnity for any operator of this vehicle while being operated with the express or implied consent of the owner? <input type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF INSURANCE COMPANY & ADDRESS	EXPIRATION DATE OF POLICY

I HEREBY CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE ABOVE INFORMATION IN EACH OF THE THREE PARTS IS TRUE AND COMPLETE. I ALSO UNDERSTAND THAT A COPY OF THIS FILING WILL BE PROVIDED TO THE LOCAL ASSESSOR WHERE I RESIDE.

*DID YOU RECEIVE A WRITTEN WARNING FROM YOUR SCHOOL INDICATING A PENALTY OF UP TO \$200.00 FOR YOUR FAILURE TO FILE THE COMPLETED NONRESIDENT DRIVER STATEMENT WITH THE POLICE DEPARTMENT?*  
 YES  NO

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

T20098-1111

## **Appendix VII: Massachusetts Anti-Bullying Statement**

The state of Massachusetts defines bullying as “the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that: (i) causes physical or emotional harm to the victim or damage to the victim’s property; (ii) places the victim in reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school.” New England Conservatory will not tolerate bullying in any form. Students who believe they have been or are being bullied should report the incident to the Dean of Students.

## Appendix VIII: Restricted Items

### Restricted Items List for Residential Students

This list is drawn from the NEC Residence Life Housing Contract and the NEC Student Handbook. In the event that a prohibited cooking or heating appliance is found in a resident's room, the resident may be charged a \$110.00 fine per appliance.

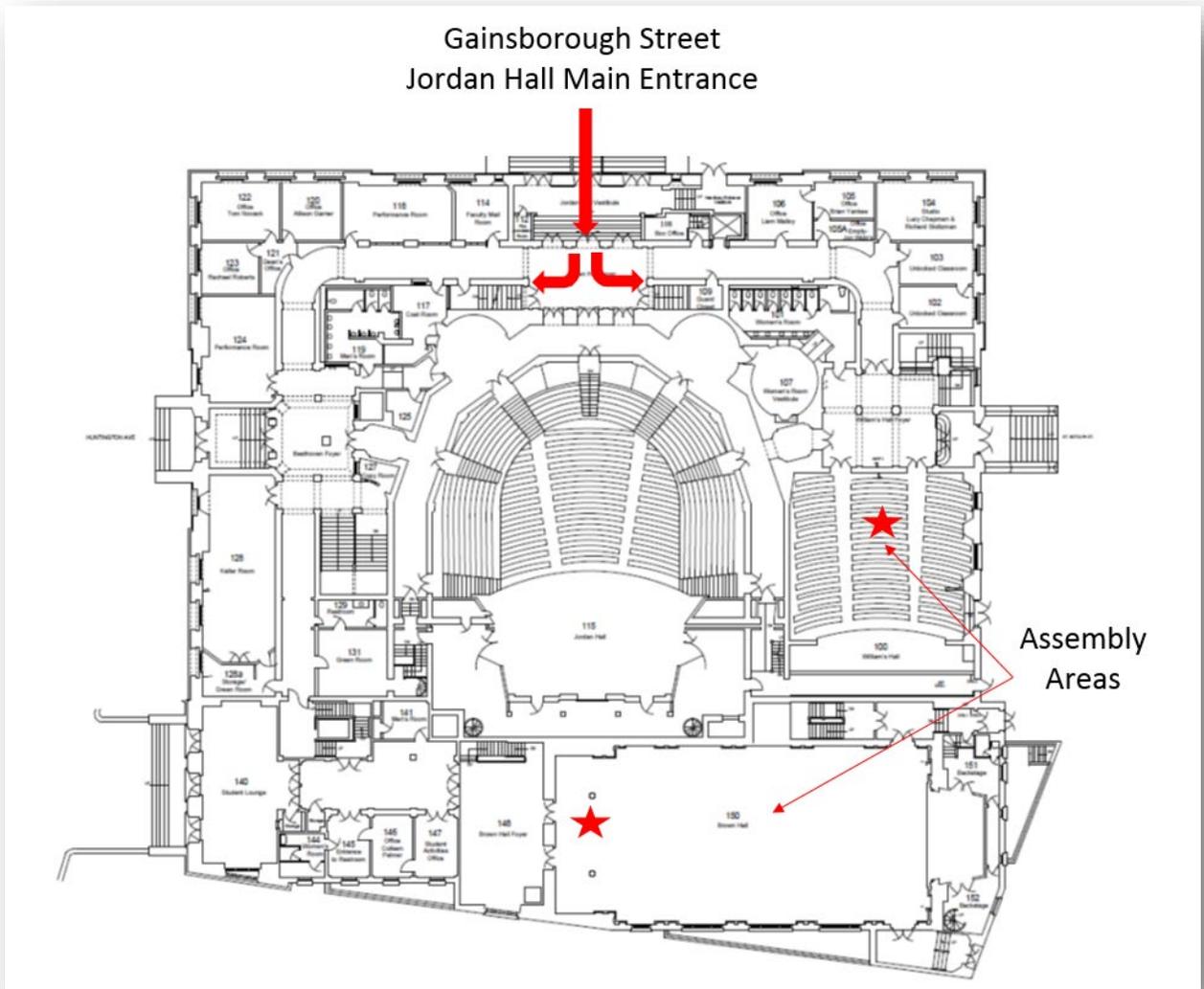
NEC residential students may not have:

- Coffee pots (including Keurig style),
- Electric tea kettles,
- Rice cookers,
- Electric blankets,
- Heating pads,
- Irons,
- Steamers,
- Toasters,
- Toaster ovens,
- Crock pots,
- Open flame burners,
- Immersion heaters,
- Halogen lamps,
- Lava lamps or any other device containing a heating element,
- Surge-protected multi-plug adapters and surge-protected extension cords (with on/off switch) are the *only approved outlet extensions*.
  - Only one of these items may be used in an outlet at a time.
  - Surge protectors may not be plugged into another surge protector to create an additional extension.
  - All other adapters or extension cords are considered a fire hazard and will be removed.
- Popular home fragrance diffusers such as Glade Plug-ins or Wallflowers are permitted under the condition that they are not plugged into an extension cord and are unplugged or refilled promptly when empty.
  - Fragrance diffusers should never contain wax and need to use heat to diffuse scent.
- Amplifiers or other electronic instrument amplifying devices may be stored in rooms, but are not permitted for use in the Residence Hall.
- Candles, incense, or any object requiring an open flame for use is not permitted in the Residence Hall and will be confiscated.
- All ceilings in student rooms, lounges, hallways, lobbies and other areas of the Residence Hall must be free of materials including but not limited to cloth such as flags or tapestries, posters, string lights, etc.
- Residents may not post flyers, photos, or other potentially flammable materials upon the interior or exterior of their room doors. Whiteboards are permitted for use.
- Hallways and areas of egress must remain clear at all times.
  - Objects such as luggage, shoes, umbrellas and bicycles may not be left in these areas.
  - Any objects left will be confiscated and disposed of immediately.
- Decorations, clothing, hangers, etc. may not be hung from the sprinkler system including pipes.
- No dried natural greenery (i.e., dried leaves, pinecones, dried flowers, etc.), except that which is living with a root system in a container, is allowed in the Residence Hall and will be removed.
  - Cut flowers in a vase with water are permitted but should be disposed of after the flowers are no longer fresh.
- No "outside" furniture is permitted to enter the premises unless pre-approved by Building Operations to have met fire safety standards.
- Pets of any kind, including fish, are not permitted within the Residence Hall.
  - Only service animals are temporarily permitted in residence areas and must receive approval by the Resident Director and/ or Assistant Dean of Campus Life before entry.

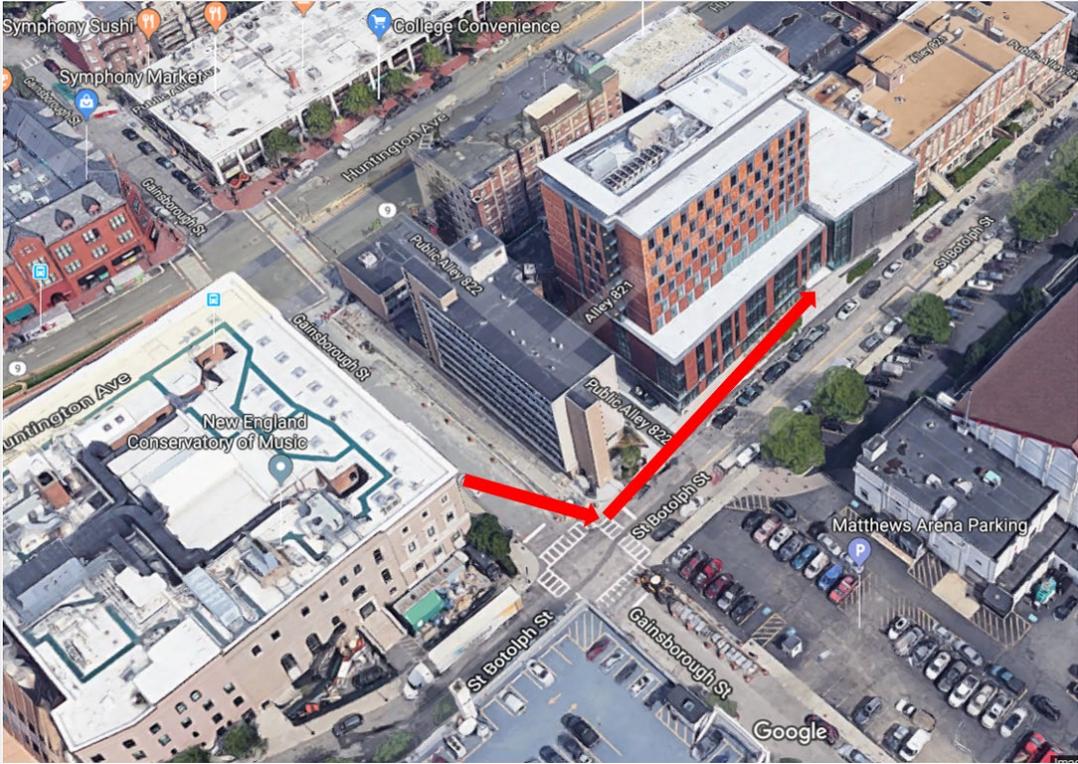
- Smoking, including the use of unregulated nicotine products such as “e-cigarettes”, is strictly prohibited for use within any portion of the Residence Hall.
  - Students may not smoke within 25 feet of an NEC building (including e-cigarettes).
  - Smoking areas are located at the corners of Gainsborough St. & St. Botolph St. and Gainsborough St. & Huntington Ave.
  - Use of e-cigarettes for smoking marijuana or any other type of drug will be considered paraphernalia, confiscated and the aforementioned action will apply.

## Appendix IX: Evacuation Maps

NEW ENGLAND CONSERVATORY OF MUSIC EVACUATION ASSEMBLY AREA  
Map 1 – Assembly point for the SLPC, 33 Gainsborough Street, and 241 St. Botolph Street



NEW ENGLAND CONSERVATORY OF MUSIC EVACUATION ASSEMBLY AREA  
Map 2 – Assembly point for Jordan Hall



## Appendix X: Locations of Campus Blue Light Emergency Telephones

### Emergency Phones

Four emergency phones with blue lights are located on campus: one at 33 Gainsborough Street, one at 241 St. Botolph Street, the public alley loading dock area and one on the corner of St. Botolph Street and Gainsborough Street.

