

ANNUAL SECURITY AND FIRE SAFETY REPORT



October 2024

Table of Contents

Part 1: Annual Campus Security Report5
Overview	5
Message from the Director of Public Safety	5
New England Conservatory of Music – Mission Statement.....	5
Core Values.....	5
Notice of Non-Discrimination	5
Clery Act Overview	6
About the Annual Security and Fire Report and its Availability	6
Public Safety and Crime Reporting Procedures	7
Department Structure.....	7
Crime Reporting Procedures.....	7
Anonymous Reporting.....	7
Campus Security Authorities (CSAs).....	7
Campus Safety Programs & Safety Resources.....	8
General Crime Prevention and Safety Advice	8
Active Shooter Training	8
Security Gates	9
Safety Escorts	9
NEC New Student Orientation	9
Building and Residence Hall Access and Surveillance.....	9
Building Access.....	9
Residential Hall Access.....	10
Surveillance Camera System.....	10
Notice of Criminal Trespass Orders.....	10
Timely Warnings and Emergency Notifications.....	10
Timely Warnings.....	10
Emergency Notifications.....	11
Emergency Response and Evacuation Procedures.....	11
Shelter in Place During an Emergency.....	12

Basic “Shelter in Place” Guidance.....	12
How to Know to “Shelter in Place?”	12
How to “Shelter in Place”	12
Contact Information and Communication Channels.....	12
Contacting Public Safety.....	12
Emergency Blue Light Telephones.....	13
Emergency Notification System.....	13
Daily Crime Log.....	13
Notification of Results.....	14
Methods of Communication.....	14
Sexual Harassment, Sexual Violence, and Other Gender-Based Misconduct.....	14
Title IX Sexual Misconduct and Gender-Based Misconduct Policies.....	14
Campus Sex Offender Reporting.....	20
Information regarding Alcohol, Illicit Drugs and Hazing.....	20
Alcohol Policy.....	20
Drug Policy	21
Hazing Policy.....	21
Part 2: Uniform Campus Crime Report (2020, 2021, and 2022 Statistics).....	23
Crime Statistics Definitions.....	23
Clery Act Geography Definitions.....	23
Clery Act Crime Definitions.....	23
Clery Act Sexual Offense Definitions.....	24
Violence Against Women Reauthorization Act (VAWA) Crime Definitions.....	24
Arrests and Referrals for Discipline for Violations of Liquor, Drug, and Weapons Laws.....	25
Hate Crime.....	25
Unfounded Crime	26
Crime Statistics Report.....	27
Part 3: Fire Safety Report.....	31
Overview.....	31
NEC Student Housing.....	31

Fire Drills.....	31
Emergency Procedures and Information	32
Fire Precautions and Procedures for Residence Hall Students.....	32
Fire Evacuation Procedures.....	32
Fire Safety Tips	33
Fire Log.....	34
NEC Student Handbook Fire Protection Policy.....	34
Prohibited Conduct	34
Fire Data Summary.....	35
Fire Investigations Report.....	35
Appendix I: Clery Act and Student’s Right to Know.....	36
Appendix II: Title IX Misconduct Policy.....	37
Appendix III: Gender-Based Misconduct Policy.....	58
Appendix IV: Court Issued Protective Orders.....	80
Appendix V: Missing Student Policy.....	84
Appendix VI: Massachusetts Motor Vehicle Law Requirements.....	86
Appendix VII: Anti-Bullying Policy.....	88
Appendix VIII: Restricted Items.....	89
Appendix IX: Evacuation Maps.....	91

Part 1: Annual Campus Security Report

Overview

Message from the Director of Public Safety

NEC, located in the heart of the city of Boston, is part of a diverse tapestry that makes Boston an extraordinary place to live, study and grow. NEC embraces a vibrant community that actively plays an essential role influencing the NEC experience.

On behalf of NEC, I thank you for choosing to study and work with us here, and I encourage you to call upon the NEC Public Safety Department whenever necessary. Please remember the most fundamental rule in crime prevention: If you see something, say something.

Best wishes for a healthy and successful year at NEC.

Eric Schiazza
Director of Public Safety

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.

Notice of Non-Discrimination

NEC is committed to providing equal opportunity to its students and employees, and to eliminate discrimination when it occurs. In furtherance of this commitment, NEC strictly prohibits discrimination or harassment based on race, color, religion, religious creed, genetic information, sex, gender identity, sexual orientation, age, national origin, ancestry, veteran, or disability status.

Clery Act Overview

The Student Right to Know and Campus Security Act was signed into law in November 1990. Title II of this act was known as the Crime Awareness and Security Act. It requires institutions participating in the student financial aid program under Title IV of the Higher Education Act of 1965 to disclose information about campus safety policies and procedures and to provide statistics concerning certain crimes that occur on campus. It was amended and renamed the Jeanne Clery Act in October 1998. In March 2013, the Violence Against Women Reauthorization Act of 2013 (VAWA) was signed into law. These changes require institutions to disclose statistics, policies and programs related to dating violence, domestic violence, sexual assault and stalking among other changes. In compliance with the act, NEC Public Safety publishes and distributes this information by October 1st of each year, unless that deadline is extended by the Department of Education for any reason (for example, in 2020, the deadline was extended to December 31 due to challenges faced by educational institutions in light of the COVID-19 pandemic).

About the Annual Security and Fire Report and its Availability

NEC's annual security report includes statistics for the previous three years concerning reported crimes and violations of NEC policy that occurred on campus, in Residential Facilities, in certain non-campus buildings owned or controlled by NEC, and on public property within or immediately adjacent to and accessible from the campus. The report also includes institutional policies concerning campus security, reporting of crimes, safety notification procedures, crime prevention and educational programs, and policies concerning alcohol and drug use, sexual assault, Title IX violations or complaints and other matters.

The information for preparing the annual disclosure of crime statistics includes requests for statistical information obtained from the following sources:

- NEC Public Safety
- Mandated NEC Campus Security Authorities
- NEC's Office of Student Services
- NEC Title IX
- Boston Police Department
- Northeastern University Police Department
- MBTA Police Department

For statistical purposes, crime statistics reported to any of these sources are recorded in the calendar year the crime was reported. 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.

NEC strives to provide a supportive environment for learning, working, and living, which includes instituting measures to protect the safety and security of the NEC community. NEC has instituted policies and procedures intended to promote security on campus. 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.

NEC publishes its annual security report on NEC's website at <https://necmusic.edu/on-campus/campus-safety/>. Each year, NEC sends an email notification to all students, staff and faculty advising of the

report's availability with a direct link to where the report is posted on the website. NEC Public Safety also will provide paper copies of the annual security report upon request. The paper copies are available at Public Safety's main office at the SLPC, 255 St. Botolph Street, Boston, MA, 02115.

Public Safety and Crime Reporting Procedures

Department Structure

The NEC Department of Public Safety (referred to in this report as NEC Public Safety) is supported by contract security officers (referred to in this report 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 enforce NEC rules and policies on campus, and every effort is made to enforce these rules and policies 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 NEC 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.

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

Anonymous Reporting

NEC Public Safety recognizes that individuals reporting an incident may seek the option to remain anonymous while reporting. NEC Public Safety will not ask any person who wishes to report an incident anonymously to share their identity.

Additionally, any individual can submit reports through a confidential, third-party reporting platform, [EthicsPoint](https://secure.ethicspoint.com/domain/media/en/gui/61839/index.html), which can be accessed on the NEC website here: <https://secure.ethicspoint.com/domain/media/en/gui/61839/index.html>.

Campus Security Authorities (CSAs)

Campus Security Authority (CSA) is a term defined by the Clery Act and its implementing regulations. CSAs are mandated to report crimes to NEC. CSAs include any official who has significant responsibility for student and campus activities. Individuals who fall under this definition may vary among department and area, and include, but are not limited to: Director of Public Safety; Public Safety Officers; Provost; Dean of Students and Campus Life; Title IX Coordinator; Dean of Academic Affairs Students; Resident

Director; and NEC Resident Assistants. All CSAs must immediately notify NEC Public Safety of a crime or incident so that the incidents can be recorded and, where appropriate, included in the Conservatory's Annual Security and Fire Safety Report.

Campus Safety Programs and Safety Resources

General Crime Prevention and Safety Advice

The following are some general safety precautions that the NEC Community or visitors can use to stay safe in Boston.

- When walking, especially alone, please keep to well-lit areas.
- Avoid all shortcuts and isolated areas.
- Keep to commonly traveled routes.
- Walk with a purpose.
- Be vigilant of your surroundings while talking on your cell phone.
- Avoid devices with headphones when walking. If you must, keep one ear free.
- Always dress for freedom of movement when walking.
- Always use caution while carrying a backpack.
- Keep your valuables under your control, especially in public spaces.
- Watch for suspicious persons or activities.
- Be aware of your surroundings, including who is near you and what they are doing.
- Avoid talking to strangers, especially in isolated areas.
- If you feel uncertain or frightened by a situation or person, cross the street, enter a business establishment, or otherwise seek the safety of having other people around you.
- If you feel threatened, do anything you can to bring attention to your situation to the best of your ability.
- Most importantly, trust your instincts and use common sense. If something feels wrong, more times than not, your instincts will be correct.

Please report all criminal or suspicious activity to NEC Public Safety (617-585-1777) on campus or dial 911 if off campus.

Active Shooter Training

NEC offers training to members of our community on how to respond if confronted with an active shooter scenario. While reports of violent crime at NEC are rare, no environment is immune from the threat of an active shooter.

NEC has teamed-up with the Boston Office of the Federal Bureau of Investigations (FBI) to provide the NEC community with Active Shooter training and teach the principles of Run. Hide. Fight.

Run. Hide. Fight. offers steps that one can take in the event of an active shooter situation. The strategies offered by the FBI trainer in this training include:

- | |
|---|
| 1. RUN: If there is an accessible escape path, attempt to evacuate the scene. |
|---|

2. HIDE: If evacuation is not possible, find a place to hide where the active shooter is less likely to find you.
3. FIGHT: As a last resort, and only when your life is in imminent danger, attempt to disrupt and/or incapacitate the active shooter.

Security Gates

NEC is committed to providing a safe, secure, and enjoyable environment for our guests, students, employees, and performers. For everyone's safety, all people entering our buildings are required to pass through a security gate. All persons, bags and cases that are flagged by the security gates will be subject to closer inspection.

Visitors unable to pass through a security gate for any reason can ask for an alternative method of being screened. NEC Public Safety has hand held wands that officials can use to provide safety to all those entering our buildings.

NEC reserves the right to deny entry to any guest who declines a security screening or refuses when asked to have their person, bags, or cases checked. No weapons of any kind, including licensed concealed weapons, are permitted on NEC property.

Safety Escorts

NEC security officers will provide students, faculty, and staff with walking escorts between NEC locations on campus, as well as nearby MBTA stations or parking garages. To request a safety escort, please call 617-585-1777.

New Student Orientation

New Student Orientation is a time for new students to meet their classmates, get familiar with Boston, engage with faculty, and begin their music career at NEC. The New Student Orientation schedule is full of important events, including a presentation by campus safety on campus resources and safety tips. Students attend other mandatory sessions, such as review of student policies and programs, and information on resources. NEC also requires all new students to complete mandatory online training, including on topics such as Sexual Assault Prevention and Bystander Intervention and Alcohol Education.

Building and Residence Hall Access and Surveillance

Building Access

All NEC facilities require card access for entry unless otherwise posted. Where appropriate, buildings are staffed by security officers as an additional safety and security measure. In circumstances in which 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, may 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, may be subject to disciplinary action as determined by the Office of Student Services.

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 surveillance cameras as a deterrence and to aid in the investigation of incidents that occur on campus. NEC has installed these cameras in several overt and covert locations on the campus. NEC cameras are not used in restrooms or dressing rooms, nor can they view into the windows of residence hall rooms. Surveillance information obtained from these cameras may be used by NEC in the investigation and adjudication of incidents on campus and may be shared with law enforcement agencies investigating an incident on campus.

Notice of Criminal Trespass Orders

NEC, including all property outlined on the campus map, is private property. Persons are permitted on this property at the discretion of NEC. NEC 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 Trespass Order* allows NEC Public Safety to convey notice to anyone that they are not permitted on any NEC property. A copy of this notice may be provided to the Boston Police Department. Any request for a termination of the Notice of Trespass Order can be made in writing to the Director of Public Safety or their designee.

Timely Warnings and Emergency Notifications

The Clery Act requires NEC to issue *timely warnings* to the campus community regarding any Clery Act crime that is reported to CSAs (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 NEC 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 NEC Public Safety, issues timely warnings concerning Clery Act crimes that occur within NEC's Clery geography, where those crimes pose a serious, 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 reported 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, respond to the emergency, or otherwise inhibit the response to an 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, NEC 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 Public 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 Public 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

NEC Public Safety receives information through offices and departments on campus, local municipal law enforcement, email, and/or text messages, and other media sources. If NEC Public Safety identifies, 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 emergency notification system (Omnalert), 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 and text messaging. The information also may be posted on a publicly available web page that is accessible to the larger community.

Emergency Response and Evacuation Procedures

The Conservatory conducts emergency drills each semester, which include residence hall evacuations and tests of the emergency notification system on campus. These tests are designed to assess and evaluate the Conservatory's emergency plans and response.

Sheltering in Place During an Emergency

If an emergency occurs and the buildings or areas in or near a location become unstable, or if air outdoors becomes dangerous due to toxic or irritating substances, it is usually safer to remain indoors because leaving the area may expose NEC community members to the danger outside. Thus, to "shelter in place" means to make a shelter of the building that NEC community members are in, and, with a few adjustments, the location can be made even safer until it is safe to evacuate.

Basic "Shelter in Place" Guidance

If an emergency occurs and the building is not damaged, NEC community members should stay inside and seek an interior room until informed by emergency responders that it is safe to exit. If the building is damaged, NEC community members should follow the evacuation procedures for the building (close door, proceed to the nearest exit, and use the stairs instead of the elevators). Once NEC community members have evacuated the building, they should immediately seek shelter in the nearest safe NEC building. If the Boston Police, or Fire Department personnel are on scene, community members should follow their directions.

How to Know to "Shelter in Place?"

A shelter in place notification may come from several sources, including Public Safety, other Conservatory officials, the Boston Fire Department, or the Boston Police Department. In addition, notification of a need to shelter in place would be disseminated by NEC through the Omnalert notification system.

How to "Shelter in Place"

No matter where NEC community members are, the basic steps to shelter in place will generally remain the same. Should the need to shelter in place ever arise, community members should follow these steps unless instructed otherwise by local emergency personnel:

- If NEC community members are inside, they should stay where they are. Collect any emergency supplies and a telephone to be used in case of emergency. If NEC community members are outdoors, they should proceed into the closest building quickly or follow instructions from emergency personnel on the scene.
- Locate a room to shelter inside. It should be an interior room above ground level without windows (or with the least number of windows).
- Shut, lock, and tightly seal windows and exterior doors.
- Turn off air conditioners, heaters, and fans.
- Close vents to ventilation systems if are able.
- Turn on a radio or TV, listen for further instructions, and to the extent possible, monitor the internet from a computer or phone.

Contact Information and Communication Channels

Contacting Public Safety

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

All crimes occurring on campus should be promptly reported to NEC Public Safety. When contacting NEC Public Safety, you will be asked to provide the following information:

- Your name (NEC Public Safety also accepts anonymous reports)
- Location of the incident you are reporting
- A description of the scene and
- A description of any individuals involved in the incident

Remember if you witness an event which you consider life threatening, you should call 911 without delay. If you contact 911 to report an event on NEC’s campus, please contact NEC Public Safety immediately afterward in the event to enable NEC Public Safety to assist 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
Director of Public Safety	(617) 585-1125	1125 from campus phone

Emergency Blue Light Telephones

NEC’s Emergency Blue Light Telephones are part of a scheduled campus safety upgrade for the 2024-2025 academic year. Once the upgrade is complete, NEC will have emergency phones with blue lights located at each end of the campus, easily accessible from the street, on the sidewalk in front of 241 St. Botolph Street and the corner of St. Botolph and Gainsborough Street. The campus community will receive a notification when the upgrade is complete.

Emergency Notification System

NEC has partnered with Omnilert, for our emergency notification system. Omnilert is capable of sending users voice messaging, text and email messages in the event of campus emergencies. Students, faculty and staff are automatically enrolled in the Omnilert system. Designated members of NEC’s administration have the authority to send Emergency Notifications as needed.

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. NEC Public Safety updates the daily crime log each business day with information concerning reports of crimes within relevant Clery geography 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 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 NEC 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 Public Safety main office at the Student Life Performance Center (SLPC, 255 St. Botolph Street, Boston) and is available for public inspection upon request.

Notification of Results

Subject to compliance with federal, state, and local law and 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 involving an NEC community member as the responding party 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

NEC Public Safety will keep members of the community informed about events impacting safety and security both on and off campus. NEC Public Safety uses various methods of communication to keep the community informed, including, but are not limited to, the Annual Campus Security and Fire Safety Report, timely warnings, emergency notifications and/or information bulletins (Community Alerts), email announcements, signage, NEC's website, and direct communication to relevant parties.

Sexual Harassment, Sexual Violence, and Other Gender-Based Misconduct

Title IX Sexual Misconduct and Gender-Based Misconduct Policies

NEC is committed to maintaining a safe and healthy educational and work environment in which no member of the NEC community is, on the basis of sex, including sexual orientation or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any NEC program or activity. NEC's Title IX Sexual Misconduct Policy and Gender-Based Misconduct Policy were in effect for the 2023-2024 academic year and cover all reports of prohibited conduct occurring before August 1, 2024. The Title IX Sexual Misconduct Policy and Gender-Based Misconduct Policies are designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the University's programs or activities; relevant sections of the Violence Against Women Reauthorization Act (VAWA); Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Massachusetts laws that prohibit discrimination on the basis of sex, sexual orientation, and gender identity. It does not preclude application or enforcement of other NEC policies.

NEC prohibits all of its community members from engaging in any and all forms of gender-based misconduct. Gender-based misconduct is a broad term which encompasses unwelcome conduct of a sexual nature that is prohibited by the Conservatory. The term gender-based misconduct includes, but is not limited to, gender-related harassment, sexual harassment, sexual assault, sexual violence, rape, intimate partner abuse, domestic violence, and stalking. Gender-Based Misconduct may also include an attempt to engage in sexual misconduct. Gender-based misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientations, and does not discriminate by racial, social, or economic background. Sexual harassment, including sexual violence, is a form of sex discrimination in that it denies an individual equal access to NEC's programs or activities.

Allegations of gender-based misconduct, including, without limitation sexual misconduct, involving any member of the NEC community may be reported to the Title IX Coordinator, as listed at

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

Katrina Chapman,
Title IX Coordinator
Counsel and Director of Compliance
(617) 585-1229
katrina.chapman@necmusic.edu

Individuals have the option to submit an anonymous report of a violation of the Title IX Sexual Misconduct Policy or Gender-Based Misconduct Policy. Those wishing to submit a report anonymously may submit a [Title IX and Gender-Based Misconduct Reporting Form](#), which is available on NEC's website here: <https://necmusic.edu/student-care-and-concern>. Individuals may also submit an anonymous report through a confidential, third-party reporting platform, [EthicsPoint](#), available online at: <https://secure.ethicspoint.com/domain/media/en/gui/61839/index.html>.

The Title IX Sexual Misconduct Policy (Title IX Policy) is appended to this report as Appendix II and the Gender-Based Misconduct Policy (GBM Policy) is appended to this report as Appendix III. The currently effective version of NEC's policy against sexual misconduct is available on NEC's website here: <https://necmusic.edu/policies/title-ix-sex-discrimination/>. The full policies should be read to understand their application and to review the procedures for disciplinary action in cases of gender-based and/or sexual misconduct, including, without limitation, alleged dating violence, domestic violence, sexual assault, or stalking. The policies set forth: 1) descriptions of proceedings (and how determined), the steps, timelines, decision-making processes, and how to submit a complaint; 2) the standard of evidence; 3) the list of possible sanctions; 4) the range of protective measures; 5) a requirement that the proceedings – conducted by trained officials – will include a prompt, fair, and impartial process; 6) assurance that the person alleged to have experienced the misconduct (the complainant) and the person alleged to have engaged in the misconduct (the respondent) will have the same opportunities to have others present, including an advisor of the individual's choosing, in any disciplinary-related meeting; and 7) description of simultaneous written notification to both parties of the result of the proceedings, process for appeal, and when such findings become final. The Title IX Coordinator is a resource for more information concerning these policies.

Resources and Reporting Options

NEC encourages all individuals who have experienced sexual violence, including, without limitation, sexual assault, dating violence, domestic violence, and/or stalking (referred to collectively as "sexual violence"), to promptly seek appropriate medical attention and to preserve any evidence. Confidential medical care is available whether or not an individual chooses to report the incident to NEC or to an external law enforcement agency (e.g., the Boston Police Department). When NEC receives a report that an NEC community member has experienced gender-based misconduct, including without limitation dating violence, domestic violence, sexual assault, or stalking, that person will be provided with information about resource options, including options for medical care, advocacy, support, and information about how to request changes to academic, living, transportation and working situations as well as their options to speak with confidential resources, on or off campus. NEC informs reported victims of gender-based misconduct of their rights and options for filing a complaint with the police and/or with NEC.

NEC students have access to the Tufts Center for Collegiate Wellness for information concerning STI testing and other relevant testing and care. Additionally, students are provided with information

concerning the availability of a SANE (sexual assault nurse examiner) examination at Boston-area hospitals. Students are advised that confidential medical care is available regardless of whether the student reports to NEC or local law enforcement.

SANE hospitals in the Boston area include, without limitation:

- Beth Israel Deaconess Medical Center (Boston)
- Boston Medical Center
- Brigham and Women's Hospital
- Massachusetts General Hospital

There is a limited window of time (typically 5 days or 120 hours) following sexual assault to preserve physical and other forms of evidence. Gathering evidence does not commit an individual to any course of action. The decision to gather any evidence and seek medical attention is confidential and may preserve options through the criminal justice system. It is important to preserve evidence as it may assist to prove that an alleged criminal offense occurred and/or may be helpful in obtaining a protective order from a Massachusetts court. During the course of a forensic exam, concerns regarding physical injury, risk of pregnancy, and prophylaxis can also be addressed.

Either NEC's Title IX Coordinator, or NEC's designated Confidential Resource Providers for students or for employees, can provide the following support to NEC students or employees who have experienced conduct prohibited by the Title IX and/or GBM policies, including, without limitation, sexual violence:

- inform them of, and connect them to, available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus;
- assist them in obtaining an NEC preventative safety No Contact Order (if the person with whom a complainant wishes to avoid contact is affiliated with NEC);
- assist them in requesting that NEC Public Safety issue a No Trespass Order to someone with whom they want to avoid contact (if the person with whom they want to avoid contact is not affiliated with NEC and has no right to be on campus);
- help arrange a change to a student's on-campus housing, an employee's working arrangements or a student's course schedules or adjustments for assignments or tests;
- inform the student or employee of their right to report a crime to campus or local law enforcement and to seek protective orders through the courts – and provide them with assistance if they wish to do so. **Note:** *NEC community members who have obtained a court issued protective order should promptly provide NEC Public Safety with a copy of any effective court issued protective orders, and inform NEC Public Safety if and when such orders are modified, extended or rescinded, so that NEC can implement measures to help to enforce the orders.*

Supportive measures may be provided by NEC if requested by an individual who reports that they have experienced conduct prohibited by the Title IX or GBM policies irrespective of whether the individual requesting supportive measures reports a crime to law enforcement or submits a formal complaint to NEC. If confidentiality is requested, supportive measures will be implemented as feasible while preserving the privacy of the impacted party as much as is possible.

NEC encourages community members who have experienced any potential gender-based misconduct to inform NEC's Title IX Coordinator, so that the Title IX Coordinator can offer appropriate supportive measures and information regarding available reporting options under applicable policies. However, NEC also wants community members to be able to seek support from other persons who are trusted to them and in an environment that feels safe to them. Recognizing that some individuals may wish to

share their experiences with another person at NEC without having those experiences reported to NEC's Title IX Coordinator or other administrators, NEC has designated a limited number of Conservatory employees as "confidential resources" who can assist NEC students while keeping the student's experiences confidential. Information about confidential resources that NEC provides for NEC students, can be found on NEC's website at <https://necmusic.edu/title-ix/resources>.

When an NEC designated confidential resource learns of potential violations of the Title IX or GBM policies in the course of performing their duties as a confidential resource, they will not share any identifiable information that was disclosed to them with NEC or any other person, without that person's permission, unless:

- sharing information is necessary to address imminent risk of harm the person they are supporting, or to protect the safety of others who are at risk of imminent harm;
- they learn information involving abuse of minors, persons with disabilities and the elderly which they are legally required to report to government authorities; or
- if required by a valid subpoena or court order to provide testimony.

In responding to reports of violations of the Title IX and/or GBM policies, personally Identifiable Information (PII) about a person alleged to have been subject to a violation of the policies is treated as confidential in compliance with law and shared only with personnel with a specific need to know to perform their professional responsibilities, such as investigating a report or delivering resources or support services to a party to a report. NEC does not publish the name of crime victims or report complainant PII in the campus Public Safety Department's Daily Crime Log or online. Individuals may request that NEC directory information on file be removed from public sources by request; the Title IX Coordinator can provide assistance with requests pertaining to directory information.

Reporting to Law Enforcement or other Agencies

NEC community members may, at their option, pursue criminal action for incidents of violations of the Title IX and/or GBM policies, including sexual violence, when those actions are also crimes under Massachusetts law. Declining to pursue a matter criminally does not preclude an NEC community member from submitting a complaint under the Title IX or GBM policies and having the matter investigated by NEC. Survivors of sexual assault, dating violence, domestic violence, stalking or other harassment, abuse, or violence have the right to seek a protective order, such as an abuse or harassment protection order (see Appendix IV to this report for more information concerning Court Issued Protection Orders).

If an NEC community member wishes to report an incident of sexual violence, including domestic violence, dating violence, sexual assault, or stalking, and to have the matter prosecuted criminally or pursue a protective order, the Title IX Coordinator or designee and/or NEC Public Safety can assist individuals in making criminal reports to the police department with jurisdiction where any incident reportedly occurred and/or to assist with referring the community member to the appropriate law enforcement agencies. When a report has been disclosed to a law enforcement agency, a criminal investigation will be launched with the information provided in coordination with local law enforcement and the District Attorney's Office. This does not require the survivor to participate in prosecution. Any member of the community also has the option to contact NEC Public Safety to report sexual violence or any other violation of the Title IX or GBM policies. The NEC Public Safety Emergency Line is monitored 24 hours a day, seven days a week and can be reached at: (617) 585-1777. NEC will, to the extent permitted by law, cooperate with law enforcement agencies if a criminal process is initiated.

Individuals who believe that they have been subjected to sexual harassment or other unlawful discrimination, harassment or retaliation, may file formal complaints with:

- **U.S. Department of Education, Office for Civil Rights (“OCR”)**

5 Post Office Square, 8th Floor, Boston, MA 02109-3921

Telephone number (617.289.0111)

TTY (800.877.8339)

Complaints filed with OCR generally must be filed within 180 days of the incident giving rise to the claim.

- **U.S. Equal Employment Opportunity Commission (“EEOC”)**

John F. Kennedy Federal Building

15 New Sudbury Street, Room 475

Boston, MA 02203-0506

Telephone number (800.669.4000)

TTY (800.669.6820)

Complaints filed with the EEOC generally must be filed within 300 days of the incident giving rise to the claim.

- **Massachusetts Commission Against Discrimination (“MCAD”)**

One Ashburton Place, Suite 601

Boston, MA 02108

Telephone number (617.994.6000)

TTY (617.994.6196)

Language assistance (617.994.6071)

Complaints filed with the MCAD generally must be filed within 300 days of the incident giving rise to the claim.

An NEC community member who has experienced sexual harassment, sexual violence, or other sexual misconduct at another educational institution may choose to report or not report the misconduct to that other educational institution. NEC’s Title IX Coordinator is available to assist any member of the NEC community who wishes to explore options of reporting Title IX sexual harassment or any other gender-based misconduct to another educational institution.

Sexual Harassment, Sexual Violence, and other Gender-Based Misconduct Education for the NEC Community

It is the policy of NEC to provide educational, preventative, and training programs regarding conduct prohibited by the Title IX and GBM policies (including, without limitation) dating violence, domestic violence, sexual assault, and stalking), to encourage reporting of incidents, to respond promptly and equitably to gender-based misconduct in a manner that is not deliberately indifferent, to prevent incidents of gender-based misconduct from denying or limiting an individual’s ability to participate in or benefit from NEC’s programs or activities, to offer to the parties supportive measures as appropriate, as reasonably available, and without fee or charge, and to provide prompt and equitable methods of resolution.

Educational programming consists of primary prevention and awareness programs – including policy literacy, consent education, and bystander intervention for all incoming students and new employees, as

well as ongoing prevention and awareness campaigns for students and the campus community in its entirety, which are aimed at preventing and effectively responding to domestic/dating violence, sexual assault, sexual harassment, and stalking. These educational programs and awareness initiatives have clear goals and objectives, including but not limited to: identify domestic violence, dating violence, sexual assault, stalking, and other forms of Gender-Based Misconduct as prohibited conduct; define the behavior that constitutes domestic violence, dating violence, sexual assault, stalking, and other Gender-Based Misconduct; define what behavior and actions constitute consent to sexual interactions; provide safe and effective options for both active and passive bystander intervention; provide information on both harm reduction and risk reduction to help the NEC community recognize warning signs of prohibited behavior and to minimize the risk of potential attacks or retaliation; provide an overview of information contained in the Annual Security Report in compliance with Title IX, VAWA, the Campus SAVE Act, the Clery Act and other applicable laws. Specific considerations with regard to education and programming are made in an effort to be culturally competent in practice and approach and to consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

The Conservatory is committed to educating our community on the importance of being an active bystander. Bystander Intervention is defined as safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes: recognizing situations of potential harm; understanding institutional structures and cultural conditions that facilitate violence; overcoming barriers to intervening; identifying safe and effective intervention options and; taking action to intervene. Bystander intervention is addressed in programs and training sessions for NEC community members. NEC also provides risk reduction information in its training programs for students and other community members. Risk Reduction is defined as options designed to: decrease perpetration and bystander inaction; increase empowerment for victims in order to promote safety and; help individuals and communities address conditions that facilitate violence.

Confidential Off-Campus Resources

Boston Area Rape Crisis Center

BARCC offers a 24-hour hotline at 800-841-8371. BARCC also provides information and referrals for rape, sexual assault, dating and domestic violence as well as individual and group counseling, support groups, and accompaniment to local hospitals (such as to Beth Israel Deaconess in Boston, where you may meet with a SANE-certified nurse) and police stations. Detailed information about BARCC's services, including a 24-hour phone hotline (800-841-8371) and a web chat hotline can be accessed here: <https://barcc.org/information/contact/>

Asian Task Force (ATASK):

Serves survivors of domestic violence; 24-hour Multilingual Helpline: 617-338-2355; website <http://www.atask.org/site/>

Fenway Community Health Violence Recovery Program (VRP):

Specialize in working with LGBTQI community. Number: 617-927-6250 or 800-834-3242; website <https://fenwayhealth.org/care/behavioral-health/violence-recovery/>

Casa Myrna:

Serves survivors of relationship violence. Advocates are bilingual in English and Spanish. Safelink Domestic Violence 24-Hour Helpline: 877-785-2020, website <https://casamyrna.org/get-support/safelink>

Additional Off-Campus Resources

- Beth Israel Deaconess Medical Center for Violence Prevention & Recovery: 617-667-8141
- SafeLink (Statewide Domestic Violence Hotline Program of Casa Myrna Vazquez Inc.): 1-877-785-2020
- Child at Risk Hotline: 1-800-792-5200
- Disabled Persons Protection Commission Hotline: 1-800-426-9009
- Infolink National Victim Resource Line: 1-800-394-2255
- Llamanos: 1-800-223-5001
- National Center for Victims of Crime
- RAINN (Rape Abuse Incest National Network): 1-800-656-4673
- REACH Beyond Domestic Violence – 24-hour Hotline: 1-800-899-4000
- Victim Rights Law Center (VRLC): 1-617-399-6720
- Voices Against Violence: 1-800-593-1125
- Journey to Safety Domestic Abuse Program (JF&CS): 781-693-5558
- 1in6: A resource for male-identified survivors
- MaleSurvivor: A community for male-identified survivors

Campus Sex Offender Reporting

The federal Campus Sex Crimes Prevention Act requires that when a sex offender becomes employed, enrolls as a student, or volunteers at an institution of higher education in the state of Massachusetts, they must register with the Massachusetts Sex Offender Registry Board (SORB). The SORB procedures ensure this registration information is promptly made available to law enforcement agencies having jurisdiction over the area where the institution of higher education is located. For NEC, the Boston Police Department is responsible for maintaining the SORB registry. Sex offender information may be obtained upon request at the Boston Police Department or through the Sex Offender Registry Board which can be accessed by clicking on the following link: <https://www.mass.gov/orgs/sex-offender-registry-board>

Information regarding Alcohol, Illicit Drugs and Hazing

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.

NEC is committed to observing all Massachusetts state laws, including those that govern the sale, purchase, and serving of alcoholic beverages. These laws cover the purchase of alcohol by and for persons who are under the legal drinking age; the serving of alcohol to persons who are either under the legal drinking age or intoxicated; and the serving of alcohol to persons who operate motor vehicles under the influence of alcohol. These laws cover all NEC activities that take place on or off-campus. Moreover, because many NEC students are under 21 (including Preparatory School students, who are typically under 18), NEC takes its Drug and Alcohol Policies very seriously.

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 bongos, clips, pipes and other items) from its premises. These items are subject to confiscation; students using them will face disciplinary action, up to, and including suspension or expulsion from NEC. 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 Anti-Drug Abuse law. 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. The Anti-Hazing law provides as follows:

- **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 in the Student Handbook.

Part 2: Uniform Campus Crime Report (2021, 2022, and 2023 Statistics)

Crime Statistics Definitions

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.
- **On-Campus Student Housing Facility:** Any student housing that is owned or controlled by the institution or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus.
- **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

- **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.
- **Sex Offenses:** 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:** The Massachusetts jurisdictional definition of “dating violence” is set forth in Massachusetts General Law Chapter 209A, Section 1. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship 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:** In Massachusetts, the law of Domestic Violence (Chapter 209A, Section 1) defines domestic abuse as the occurrence of one or more of the following acts (1) Attempting to cause or causing physical harm; (2) Place another in fear of imminent serious physical harm; or (3) Causing another to engage involuntarily in sexual relations by force, threat of force, or duress. Domestic Violence can be 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 (Chapter 265, Section 43) 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 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.

Unfounded Crimes

A crime is considered unfounded for Clery Act purposes only when law enforcement makes a determination that the report is false or baseless. Crime reports can be properly determined to be false or baseless only if the evidence establishes that the crime reported was not, in fact, completed or attempted in any manner.

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Crime Statistics Report

Criminal Offenses Reporting Table					
Offense	Year	Geographic Location			
		On Campus Property	On-Campus Student Housing	Non-campus Property	Public Property
Murder	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Murder/Non-Negligent Manslaughter	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Sex Offense – Forcible					
Rape	2021	0	0	0	0
	2022	0	0	0	1 ¹
	2023	1	1	0	0
Fondling	2021	0	0	0	2
	2022	0	0	0	0
	2023	1	1	0	0
Sex Offense – Non-forcible					
Incest	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Statutory Rape	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Robbery	2021	0	0	0	0

¹ August 2022, a person with no NEC affiliation reported to a Public Safety officer on patrol that they were sexually assaulted off campus. The Boston Police Department was notified and handled the situation.

	2022	0	0	0	1 ²
	2023	0	0	0	0
Aggravated Assault	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Burglary	2021	2	0	0	0
	2022	0	0	0	0
	2023	3	0	0	0
Motor Vehicle Theft	2021	0	0	0	0
	2022	0	0	0	1
	2023	0	0	0	0
Arson	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0

VAWA Offenses Reporting Table					
Offense	Year	Geographic Location			
		On Campus Property	On-Campus Student Housing Facilities	Non-campus Property	Public Property
Domestic Violence	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Dating Violence	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Stalking	2021	0	0	0	1
	2022	0	0	0	0

² June 2022, a person with no NEC affiliation reported to Public Safety that they were a victim of an attempted robbery while inside a public alley near campus. The person did not wish to report the incident to the Boston Police Department.

	2023	0	0	0	1
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Arrests and Disciplinary Referrals Reporting Table					
Offense	Year	Geographic Location			
		On Campus Property	On-Campus Student Housing Facilities	Non-campus Property	Public Property
Arrests: Weapons: Carrying, Possessing, Etc.	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Disciplinary Referrals: Weapons: Carrying, Possessing, Etc.	2021	1	1	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Arrests: Drug Abuse Violations	2021	0	0	0	1
	2022	0	0	0	1
	2023	0	0	0	0
Disciplinary Referrals: Drug Abuse Violations	2021	1	1	0	0
	2022	1	0	0	0
	2023	0	0	0	0
Arrests: Liquor Law Violations	2021	0	0	0	0
	2022	0	0	0	0
	2023	0	0	0	0
Disciplinary Referrals: Liquor Law Violations	2021	1	1	0	0
	2022	1	1	0	0
	2023	2	2	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	2021	0	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0	0
On-Campus Student Housing Facilities	2021	0	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0	0
Non-Campus Property	2021	0	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0	0
Public Property	2021	0	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0	0
	2023	1 ³	0	0	0	0	0	0	0

Unfounded Offenses					
	Year	Geographic Location			
		On Campus Property	On-Campus Student Housing Facilities	Non-campus Property	Public Property
Unfounded Offenses	2021	0	0	0	0
	2022	0	0	0	1
	2023	1	0	0	0

³ In March of 2023 the Boston Police Department responded to a hate crime involving the intimidation of a person motivated by a Racial bias. The victim in this incident had no NEC affiliation.

Part 3: Fire Safety Report

Fire Safety Report

Overview

The Higher Education Opportunity Act (Public Law 110-315), requires NEC to produce an annual fire safety report outlining fire safety practices, standards and fire-related statistics for on campus housing facilities. The following Fire Safety Annual Report contains all required information relating to NEC. At NEC, the responsibility to maintain Fire Safety on campus is done in collaboration between Public Safety, Student Services, and the Facilities Department.

NEC Student Housing

The NEC residence hall is located in the Student Life and Performance Center (SLPC, 255 St. Botolph Street). The SLPC residence hall is equipped with integrated automatic sprinkler and fire systems, which are monitored 24 hours a day throughout the year. Each building is also equipped with either an emergency generator or a battery backup system designed to automatically activate whenever there is a loss of power to the entire building. The generators and batteries will operate life safety systems including all sprinkler systems; hallway lighting, emergency exit doors, and lighting in all emergency exit stairwells (see below chart for fire detection, notification, and suppression system.)

Currently there are no immediate plans to upgrade the SLPC residence hall fire alarm system.

Housing Facility	Fire Alarm Monitoring	Sprinkler System	Smoke Detectors	Fire Extinguishers	Evacuation Plans & Placards	Number of Fire Drills Yearly
SLPC, 255 St. Botolph Street	Yes	Yes	Yes	Yes	Yes	2

Fire Drills

A fire drill is a supervised practice of a mandatory evacuation of a building. Fire drills are conducted in every residence hall once each semester ⁴(twice per year) in coordination with Public Safety, Student Services, Housing, and the Facilities Department. These drills are unannounced and are performed to test:

- Residents' reaction to the fire alarm signal;
- Residents' knowledge of building emergency evacuation plans; and
- Systems functioning.

All fire drills are monitored by Public Safety and may recommend improvements based on the outcome of any given drill.

⁴ The fall semester's fire drill in calendar year 2023 was cancelled because the SLPC residence hall had consecutive fire alarms requiring student evacuation on the two days prior to the scheduled fire drill. The 2023 spring semester fire drill proceeded as planned.

Emergency Procedures and Information

Any situation in which life, physical well-being or property is in jeopardy constitutes an emergency. In such a situation, the first step is to render assistance where practical, and the second step is to get help. Emergencies may require the response of medical, law enforcement or firefighting professionals. In any emergency, it is advisable to call 911.

In case of an actual fire, contact the Boston Fire Department directly by using the nearest fire alarm or by calling 911. Once you are safely out of the building, notify the NEC Public Safety emergency line at (617) 585-1777. A public safety officer will respond directly to such calls and secure any necessary assistance, including, without limitation, local police, the Boston Fire Department, or an ambulance service. After calling the NEC Public Safety emergency line, it is best to allow the Public Safety officer to coordinate the response to the reported emergency.

When calling the NEC 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.

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 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. 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.
9. 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.

Fire Safety Tips

- 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 to 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.

Fire Log

Public Safety maintains a fire incident journal which summarizes reports of all fire incidents involving NEC's residence hall, which is reported to Public Safety. The Fire Log is maintained at the Public Safety main office at the Student Life Performance Center (SLPC, 255 St. Botolph Street, Boston) and is available for public inspection upon request.

NEC Student Handbook, Fire Protection Policy

The NEC Student Handbook includes the following Fire Protection policy for students:

In the event of a fire alarm or any other order that the premises be vacated, all persons, including students, faculty, and administration, must exit the premises immediately. There are no exceptions.

This policy is to ensure the safety and wellbeing of all people in the event of an actual emergency. It is the Conservatory's policy to treat all alarms as if there is an actual emergency. Any student who fails to vacate the premises immediately shall be subject to disciplinary action.

NEC supports the promotion of fire safety awareness and protection. As such:

- Fire drills will be held periodically (in accordance with state regulations). Students failing to participate in a fire drill will face disciplinary action.
- Any student found tampering with fire extinguishers, emergency signs, fire protection equipment, or fire exits is a violation of both state and Conservatory regulations. Students who inflict malicious damage on equipment (including pull-boxes, hoses, smoke alarms, heat sensors, signs, or fire extinguishers) or block fire doors will be subject to fines, NEC disciplinary action, and the possibility of a criminal prosecution or arrest.
- Individuals with mobility challenges or other disability-related considerations needing assistance in the event of an emergency should promptly contact NEC Public Safety (617-585-1125) to discuss and implement an emergency assistance plan, including to review areas of designated rescue assistance.
- Fire equipment should be used only during emergencies.

Prohibited Conduct

Intentional setting of a fire or actions that create a fire hazard. Included within this prohibition is misuse or abuse of fire safety equipment, including the setting of false alarms, the misuse of emergency exits, the wrongful discharge of fire extinguishers, or tampering with alarm and/or smoke alarms. Included in this is failure to immediately evacuate a building or area upon the sounding of an alarm.

Fire Data Summary

Fire Investigations Report

The New England Conservatory of Music campus is where all student housing is located. In 2023 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:

SLPC Residence Hall, 255 St. Botolph Street	2021	2022	2023
Actual Fires	0	0	0
Arson (including attempted)	0	0	0
Damages	0	0	0
Injuries	0	0	0
Fatalities	0	0	0
Monetary Damages	\$0.00	\$0.00	\$0.00

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

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "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 \$67,544.00 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) 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.

Appendix II: Title IX Misconduct Policy

Revised August 2023

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

New England Conservatory's Title IX Policy on Sexual Misconduct

I. INSTITUTIONAL VALUES, PURPOSE AND SCOPE OF POLICY

New England Conservatory (NEC or the "Conservatory") is committed to maintaining a safe and healthy educational and work environment in which no member of the NEC community is, on the basis of sex, including sexual orientation or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any NEC program or activity. Sexual harassment, including sexual violence, is a form of sex discrimination in that it denies an individual equal access to NEC's programs or activities. This Title IX Policy on Sexual Misconduct (the "Title IX Policy" or this "Policy") is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the University's programs or activities; relevant sections of the Violence Against Women Reauthorization Act (VAWA); Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Massachusetts laws that prohibit discrimination on the basis of sex, sexual orientation, and gender identity. It does not preclude application or enforcement of other NEC policies.

It is the policy of NEC to provide educational, preventative, and training programs regarding sexual misconduct; to encourage reporting of incidents; to respond promptly and equitably to sexual misconduct in a manner that is not deliberately indifferent; to prevent incidents of sexual misconduct from denying or limiting an individual's ability to participate in or benefit from NEC's programs or activities; to offer to the parties supportive measures as appropriate, as reasonably available, and without fee or charge; and to provide prompt and equitable methods of resolution.

Violations of this Policy may result in the imposition of sanctions ranging from an admonition or warning up to, and including, termination, dismissal, or expulsion. The remedies designed to restore or preserve equal access to NEC's programs or activities may range from course-related adjustments and no contact orders to restrictions on access to campus, campus locations, or campus activities. Retaliation against an individual for making a report or complaint of sexual harassment, or for participating or refusing to participate in any proceeding regarding such a complaint, or for opposing discriminatory practices is prohibited.

This Title IX policy explains the process that will apply to reports of sexual misconduct as defined by the regulations implemented by the Department of Education ("DOE") in August 2020 (the "federal Title IX regulations") and applies to all members of the NEC community. Allegations of sexual misconduct involving any member of the NEC community, regardless of where it occurred, should be reported to the Title IX Coordinator:

Katrina Chapman, Title IX Coordinator

Katrina.Chapman@necmusic.edu

Tel: 617-585-1299

Allegations of misconduct that do not meet the definition of sexual misconduct as defined by the federal Title IX regulations (including definitions of prohibited conduct and jurisdictional elements) may be prohibited by other NEC policies, including, but not limited to, NEC's Gender-Based Misconduct Policy. Members of the NEC community with questions about whether alleged misconduct falls under this or the Gender-Based Misconduct Policy should contact the Title IX Coordinator.

II. EMERGENCY ASSISTANCE, SUPPORTIVE MEASURES, AND RESOURCES

NEC offers supportive measures and resources to assist NEC students and employees who disclose they have experienced sexual misconduct or other conduct prohibited by this Policy. All of the supportive measures and resources identified in this section are available regardless of whether the NEC student or employee chooses to submit a formal complaint under this Policy or to participate in either an NEC investigation or hearing, or a criminal process.

NEC encourages all individuals who have experienced sexual assault to promptly seek appropriate medical attention and to preserve any evidence. NEC's Title IX Coordinator, the Dean of Students and Campus Life, or Director of Public Safety can assist with referrals for an evidence collection exam at an appropriate hospital in cases of recent sexual violence.

A. EMERGENCY ASSISTANCE AND SUPPORTIVE MEASURES

Any person who believes they may be at immediate risk of harm should dial 911. NEC also operates a 24-Hour Campus Security and Dispatch, which can be accessed 24 hours a day at 617-585-1777 or extension 1777 from any campus phone.

NEC's Title IX Coordinator is available to assist with providing supportive measures (as defined in the Definitions section of this Policy). 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.

The Title IX Coordinator and/or the Director of Public Safety can provide information and assistance concerning options to notify or decline to notify local law enforcement of a crime (including certain forms of sexual misconduct) and to seek protective orders through the courts if they wish to do so. NEC community members who have obtained a court issued protective order should promptly provide the Title IX Coordinator or Director of Public Safety with a copy so that NEC can help to enforce the order. The Title IX Coordinator or Director of Public Safety should also be notified when such orders are modified, extended, or rescinded.

The Title IX Coordinator can assist NEC students or employees in requesting that NEC Public Safety issue a No Trespass Order prohibiting access to campus to someone with whom they want to avoid contact. A No Trespass Order may be an option if the person with whom they want to avoid contact is not affiliated with NEC and has no right to be on campus – for other situations, a removal from campus would need to meet the standards for emergency removal or administrative leave described in this Policy. The Title IX Coordinator can also assist with obtaining an NEC-issued No Contact Order (NCO) or No Communication

Directive (NCD) between an individual who reports experiencing conduct prohibited by this Policy and the person who is reported to have violated the Policy. NEC's Title IX Coordinator provides NEC Public Safety with copies of No Contact Orders (NCOs) issued by the Title IX Office.

B. MEDICAL

There are multiple reasons why individuals who have experienced sexual misconduct may seek medical care at different times, such as due to a physical injury, sexually transmitted infection and HIV prophylaxis, concerns regarding pregnancy, and/or for a forensic medical exam to preserve evidence. NEC encourages individuals who have experienced sexual misconduct to seek assistance from a medical provider at any time, if needed. A medical provider can provide routine and emergency medical services, as well as information concerning any health care concerns related to sexual misconduct, in a confidential medical setting.

To collect and preserve physical forensic evidence for potential criminal prosecution, an individual should seek a forensic exam, which is referred to as a Sexual Assault Nurse Examination (SANE). There is a limited window of time (typically 5 days or 120 hours) following a sexual assault to preserve physical and other forms of evidence. Gathering evidence does not commit an individual to any course of action. The decision to gather any evidence and seek medical attention is confidential and may preserve options through the criminal justice system. During a forensic exam, concerns regarding physical injury, risk of pregnancy, and prophylaxis can also be addressed.

Several hospitals within the Boston-area are designated SANE Hospitals, including:

Beth Israel Deaconess Medical Center

330 Brookline Avenue, Boston, MA

1-617-667-7000

Boston Medical Center

Boston Medical Center Place, Boston, MA

1-617-638-6800

Brigham & Women's Hospital

75 Francis Street, Boston, MA

1-800-294-9999

Massachusetts General Hospital

55 Fruit Street, Boston, MA

1-617-726-2000

Massachusetts law requires medical personnel to report to law enforcement when an individual seeks medical treatment related to sexual assault. This report does not include the patient's name, address, or other identifying information. The report does include a general location of where the assault occurred, if known by medical personnel. For additional information see <https://www.mass.gov/info-details/section-iii-mandatory-reporting#mandated-reporting-for-ma-sanes->.

C. CONFIDENTIAL RESOURCES

NEC recognizes there are individual and societal barriers to reporting and not every individual who experiences sexual misconduct will choose to report to NEC or local law enforcement. NEC offers confidential resources for those individuals who are seeking support and do not want to report sexual

misconduct to the Title IX Coordinator or to an NEC employee who is required to share information about their report with NEC's Title IX Coordinator.

Students and employees who want to talk to someone at NEC concerning sexual misconduct without making a report to NEC or initiating any action or investigation by NEC may contact confidential resources. Discussing sexual misconduct with a confidential resource will also not result in a report to law enforcement or a state agency, unless the report concerns abuse of minors (under the age of 18), abuse by a caregiver, homicidal ideation, or suicidal ideation, in which case notification, including to law enforcement or a state agency may be required.

The following NEC resources are confidential:

NEC Counseling Center (Students): The Counseling Center provides students with access to non-emergency medical care and/or counseling appointments with trained and credentialed counselors. The Counseling Center can be contacted at 617-585-1284. NEC students can also connect with a counselor through Assist@NEC, which is available 24 hours a day, 7 days a week at 833-434-1217. The counselors of the Counseling Center and Assist@NEC are bound by professionally and legally recognized confidentiality requirements that prohibit the release of information without an individual's express written consent except as required by law.

Employee Assistance Program (Employees): Staff and faculty can access referrals to medical, counseling, and additional forms of support through NEC's confidential third-party Employee Assistance Program, *Employee Connect*, by calling 1-888-628-4824 or visiting www.GuidanceResources.com. Additional information on *Employee Connect* is posted on ADP. Employees can also contact Human Resources with any questions.

External Confidential Resource - Tufts Medical Center (Students): External Confidential Resource - BARCC (Students and Employees): In addition to offering confidential resources through the Counseling Center (students) or Employee Assistance Program (employees), the Boston Area Rape Crisis Center (BARCC) offers confidential services to NEC students and employees. BARCC provides advocacy and assistance in working with local police, hospitals, legal services, and campus offices. BARCC advocates are not required to make a report to NEC. Detailed information about BARCC's services, including a 24-hour phone hotline (800-841-8371) and a web chat hotline can be accessed here: <https://barcc.org/information/contact/>.

Off-campus counselors, advocates, and health care providers (such as contacts made through the Employee Assistance Program, BARCC, or the community resources identified in Part D below) will generally maintain confidentiality and not share information with NEC unless the individual requests the disclosure and signs a consent or waiver form. However, there are some circumstances when these providers may have reporting or other obligations under applicable law, including, without limitation: making reports to governmental agencies in situations involving minors; a requirement to provide testimony in response to a subpoena or court order; or notifying relevant parties when an individual is at risk of imminent harm to self or others.

D. ADDITIONAL COMMUNITY RESOURCES

There are various organizations that provide crisis intervention, counseling, and medical services, as well as assistance with navigating the criminal/civil legal system. Members of the NEC community are

encouraged to use the resources that are suited to their needs, whether on or off campus. Some resources in the local Boston area include:

COMMUNITY RESOURCES

- Asian Task Force (ATASK): Serves survivors of domestic violence; 24-hour Multilingual Helpline:
 - 617-338-2355
 - <http://www.atask.org/site/>
- Fenway Community Health Violence Recovery Program (VRP): Specialize in working with LGBTQI community.
 - [617-927-6250](tel:617-927-6250) or [800-834-3242](tel:800-834-3242)
 - <https://fenwayhealth.org/care/behavioral-health/violence-recovery/>
- Casa Myrna: Serves survivors of relationship violence. Advocates are bilingual in English and Spanish. Safelink Domestic Violence 24-Hour Helpline:
 - [877-785-2020](tel:877-785-2020)
 - <https://casamyrna.org/get-support/safelink>

ADMINISTRATIVE AGENCY RESOURCES

- Massachusetts Commission Against Discrimination (MCAD)
 - [617-994-6000](tel:617-994-6000)
 - <https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>
 - The MCAD enforces certain Massachusetts laws prohibiting sex discrimination and sexual harassment.
- Equal Employment Opportunity Commission (EEOC)
 - [800-669-4000](tel:800-669-4000)
 - <https://www.eeoc.gov/field-office/boston/location>
 - The EEOC enforces federal law prohibiting sexual discrimination and sexual harassment in the workplace.
- U.S. Department of Education, Office for Civil Rights (OCR)
 - [617-289-0111](tel:617-289-0111)
 - <https://www2.ed.gov/about/offices/list/ocr/index.html>
 - OCR enforces federal laws prohibiting discrimination against students, including Title IX.

III. TITLE IX PROHIBITED CONDUCT

This section of the Policy identifies and defines Prohibited Conduct.

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 (see definition for “coercion”), where an individual does not consent (see definition for

“consent”) 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.

Dating Violence

Violence committed by a person who is or has been in a romantic or intimate relationship with the victim. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

Violence committed by: a current or former spouse or intimate partner of the victim, or someone similarly situated; a person with whom the victim shares a child in common; or 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 location in which the crime of violence occurred.

Title IX Sexual Harassment

Title IX Sexual Harassment includes conduct on the basis of sex that meets one or more of the following definitions:

- 1) Conditioning the provision of any educational benefit or service on a person’s participation in unwelcome sexual conduct (“quid pro quo” sexual harassment); or
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Conservatory’s educational programs or activities (“hostile environment” sexual harassment).

Determinations that an individual committed sexual assault, dating violence, domestic violence, or stalking, as defined in this Title IX Prohibited Conduct section, may constitute one form of hostile environment sexual harassment and/or may be considered with other forms of hostile environment sexual harassment.

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 to 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.

Retaliation

Acts or attempts to retaliate or seek retribution against individuals who report conducted prohibited by this Title IX Policy, assist another in making a report, or participate in an investigation of the report, including the Complainant, Respondent, or any individual or group of individuals involved in the investigation and/or resolution of an allegation. Retaliation includes subjecting a person to an adverse employment or educational action because they made a complaint under any portion of the Title IX Policy, or responded to, assisted, or participated in any manner in an investigation under the Title IX Policy. Retaliation may also include abuse or violence and other forms of harassment. Any individual or group of individuals can engage in prohibited retaliation.

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, NEC retains discretion to review the allegation under another NEC policy.

IV. STANDARD OF PROOF

Preponderance of the Evidence. The standard of evidence that NEC uses to determine responsibility for violating this Policy is the preponderance of the evidence. This means that in reviewing allegations of prohibited conduct, the totality of the evidence will be considered to determine whether the Respondent is more likely than not to have been responsible for a violation of the Title IX Policy.

- The preponderance of the evidence standard is not the standard used for criminal culpability in most jurisdictions and a determination of responsibility under this 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 this Policy, or other Conservatory policies, were not violated. The two procedures are significantly different and use different standards for determining violations.

V. REPORTING PROHIBITED CONDUCT AND INVESTIGATION PROCESS

NEC encourages community members who have experienced any potential sexual misconduct, regardless of whether the incident occurred or whether the conduct is prohibited under Title IX, to inform the Title IX Coordinator, so that the Title IX Coordinator can offer appropriate supportive measures and information regarding available reporting options under applicable policies.

NEC can address reports of violations of this Policy most completely when the Conservatory is able to identify and communicate with the people reporting policy violations. The benefits of direct reporting include a greater ability for NEC to follow-up on the information in the report and to provide resources, support, and options to those reporting. However, NEC also provides individuals with the option to submit an anonymous report to NEC's Title IX Coordinator without disclosing their identity or the identity of others or requesting any action. Those wishing to submit a report anonymously may submit the online form titled Violations of Title IX and Gender-Based Misconduct Policies (available on NEC's website here: <https://necmusic.edu/student-care-and-concern>) without personal identifying information. Students and employees may also file an anonymous report through EthicsPoint, a third-party service party that permits the submitter to submit an anonymous report and to exchange anonymous messages with NEC. EthicsPoint can be accessed by students by logging into "My NEC" and navigating to the Security & Safety tab. For employees, EthicsPoint is accessed via the ADP website, available through the OneLogin webpage: <https://necmusic.onelogin.com/portal>.

If a report is submitted anonymously, NEC will review the information in the report, but may be limited in its ability to take action with regard to the information that is shared.

Reports that fall within the federal Title IX regulations will follow the below process.

1. Informal Reports

Reports of conduct that may fall within this Policy can be submitted to the Title IX Coordinator regardless of where they occurred. After receiving an informal report of conduct that could fall under the Title IX Policy, the Title IX Coordinator, or their designee (the “Title IX Officer”), will take a number of initial steps; these initial steps are not an investigation. Rather, these initial steps will enable NEC to assess the need to take any immediate action to address the safety and health needs of the parties involved in a matter and to help the parties determine the next appropriate steps, whether under this Title IX Policy or a referral to another Conservatory policy, including, without limitation, the Gender-Based Misconduct Policy. These initial steps may include, but are not limited to, the following:

- A. The Title IX Officer will contact the Complainant (if known) and encourage them to meet virtually or in person to discuss the nature and circumstances of the report, review relevant documentation that is available, and describe the various options available to them.
- B. Regardless of whether a Complainant decides to participate in an adjudication process, they may be entitled to supportive measures, as defined in the Definitions section of this Policy.

The decision to implement supportive measures will be communicated by the Title IX Officer in writing. NEC will seek to be transparent with regard to supportive measures that 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 review the processes, options, and protections in this Title IX Policy. The Title IX Officer will also explain the right to submit a formal complaint, and the right to delay or decline to submit a formal complaint to NEC. Depending on the nature of the report, the Title IX Officer may also advise the Complainant of the opportunity to make a report to local law enforcement. Such a report will not change any obligation of NEC to investigate the matter, but it may briefly delay the timing of the investigation, such as if a law enforcement agency requests that NEC delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct. NEC does not use the same process or standard of proof as a criminal process. Typically, NEC will only inquire about criminal processes if they impact an individual’s ability to access or use NEC’s process. In no instance will a concurrent criminal proceeding, by itself, lead to an adverse inference against the Respondent.

2. Formal Complaint

A Complainant or the Title IX Coordinator may submit a formal complaint at any time by preparing a written document that is physically or electronically signed by the Complainant or the Title IX Coordinator, alleges Title IX Prohibited Conduct as defined in this Policy, and requests that NEC investigate the allegation. A formal complaint can be submitted regardless of where the incident occurred, and the Title IX Coordinator will review the content of the complaint to determine if it should be investigated, whether under this Policy or another NEC policy. The formal complaint may be submitted to the Title IX Coordinator in any of the following ways:

- a. By delivering, mailing, or otherwise transmitting the formal complaint to the Title IX Coordinator;
- b. By emailing the formal complaint to katrina.chapman@necmusic.edu;
- c. By completing a [Title IX and Gender-Based Misconduct Reporting Form](#) ; or
- d. Through any other means that results in the Title IX Coordinator receiving the person's signed formal complaint.

If the Complainant declines to proceed with a Title IX investigation and does not submit a formal complaint, the Title IX Officer will weigh that request against NEC's obligation to address any risk of harm to the community based on the allegations in a report and may sign a formal complaint against another party if deemed necessary. In such situations, the Title IX Officer and/or NEC is not a party and will provide notice, as set forth below, to both the Complainant and Respondent.

As soon as practicable after receiving a formal complaint, and with sufficient time to prepare for any interview or meeting, the Title IX Coordinator will provide a written notice to all known parties that will include: a description of the allegations as they are understood at the time, including, to the extent known the name(s) of the parties, the date, time, 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 Respondent is presumed not responsible for the alleged conduct. This written notice does not constitute a finding or a determination of responsibility. The written notice will be updated or amended if new allegations are raised by either party and accepted for investigation.

In appropriate circumstances, to address imminent threats posed to any person's physical health or safety as a result of the allegations in a formal complaint, NEC may evaluate whether to remove a Respondent from its Education Program and Activities on an emergency basis or to place an employee on leave during the Title IX Investigation Process.

- a. **Emergency Removal.** NEC may remove a Respondent from its Education Program or Activity on an emergency basis following an individualized safety and risk analysis that determines there is an immediate threat to the physical health or safety of any individual arising from the allegations of prohibited conduct. The Respondent shall have the opportunity to challenge the decision immediately following the removal.
- b. **Administrative Leave.** NEC may place an employee on leave during the Title IX Investigation Process.

3. Preliminary Review of Formal Complaint

Upon receipt of a formal complaint, the Title IX Officer will conduct a preliminary review to determine whether:

- (a.) the conduct is alleged to have occurred in the United States;
- (b.) the conduct is alleged to have occurred in an Education Program or Activity; and
- (c.) whether the formal complaint alleges facts that, if true, may constitute a violation of the Title IX Policy.

If the Title IX Officer determines that the formal complaint meets with above criteria, the matter will be referred to the Title IX investigation process.

If a formal complaint alleges that a Respondent engaged in conduct that potentially violates both NEC's Title IX Policy and other NEC policies, the Title IX Officer may within their discretion choose to resolve some or all the non-Title IX charges pursuant to the processes in NEC's Title IX Policy and will contemporaneously inform all parties of such determinations. This decision will be made at the outset of the notice of the complaint or as soon as reasonably practicable after the allegations become clear.

4. Dismissal of Formal Complaint

If a formal complaint is submitted that does not allege Title IX Prohibited Conduct, as defined above, it must be dismissed in compliance with the federal Title IX regulations. Any allegation in a formal complaint that is dismissed because it does not constitute Title IX Prohibited Conduct or does not fall within the scope and jurisdiction of this Policy, may be addressed through another NEC policy, such as NEC's Gender-Based Misconduct Policy.

A formal complaint may be dismissed by the Title IX Officer, in whole or in part, at any time if:

- a Complainant notifies the Title IX Officer in writing that they wish to withdraw the formal complaint or any allegation(s) contained in that formal complaint; or
- the Title IX Officer determines that specific circumstances will prevent NEC from gathering sufficient information to reach a determination on the formal complaint, or any allegations contained in the formal complaint.

If a formal complaint is dismissed under this section, the Title IX Officer will provide a Notice of Dismissal to the Parties and information regarding how to appeal the decision.

5. Title IX Investigation Process

A. Notice of an Investigation. If it is determined that an investigation will begin, the Title IX Officer will send a written notice to the parties advising them that the preliminary review has concluded that the matter should be referred to the Title IX Investigation Process.

B. Advisors. Each party may have a single advisor or support person of their choice present during any formal disciplinary proceeding, including any related meeting, interview, or hearing, held pursuant to the Title IX Policy, which may include an advocate or counsel. A party may consult with their advisor during any related meeting, interview, or hearing. Except to the extent expressly permitted in the hearing process outlined below, advisors cannot act as a speaking advocate at a meeting or interview. NEC staff and internal/external personnel involved in the Title IX Investigation Process may delay or terminate interviews or 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. Accommodations, including scheduling of interviews or reviews, generally will not be made for any advisors if they unduly delay the process. An advisor is not permitted to attend a meeting, interview, or other proceeding without the party they are advising being present unless they receive the advance approval of the Title IX Officer. NEC reserves the right to take appropriate action in response to any advisor who disrupts the investigation and/or hearing process or who does not abide by rules and protocols regarding their participation, including, without limitation to protocols identified in this 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 laws. Further, advisors are expected to maintain the privacy 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.

The Conservatory will typically address communications to the Parties and not to any advisor (even an attorney-advisor or parent-advisor).

- C. **Designation of Investigator.** The Title IX Officer will designate at least one investigator to conduct a prompt, fair, and impartial investigation of the formal complaint and prepare a report of investigative findings (the "Investigative Report"). The Investigator will be a qualified and trained individual employed by or engaged by the Conservatory for the purpose of conducting investigations under the Title IX Policy, and shall have received training on issues relating to sexual misconduct and investigatory procedures to protect the safety and rights of students and employees within a year of the date that they are designated by NEC to conduct the investigation.

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, 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, to the extent possible, will include separate interviews with the Complainant, the Respondent, and any relevant witnesses. The Investigator 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 with the identification of potential witnesses who have specific information about the reported conduct and with whom they would like the Investigator to speak. The Parties also have the opportunity (and are expected) to provide the Investigator with any documentation or other items or questions they would like to be considered. All information described in this section should be presented to the Investigator in writing and include a brief description as to how the potential witnesses, documents, and/or items are relevant to the reported conduct. This information must be provided to the Investigator during the Investigation Process and without delay upon becoming aware of it. The Investigator 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 Process 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 the 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 another party and/or witnesses at the Determination Hearing through an advisor as described below. The Investigator 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. Under the federal Title IX regulations, NEC is not permitted to offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student. 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. The 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, in consultation with the facilitator, 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.

6. **Investigative Report and Determination of Responsibility by Determination Hearing**

- A. **Content of the Investigative Report.** At the conclusion of the Investigation Process, the Investigator will prepare an Investigative Report, which should include a summary of the factual information presented during the Investigation Process and a separate section where the Investigator points out relevant consistencies or inconsistencies (if any) between all sources of information. Attached to 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.** The Parties will be given an opportunity to review the entire Investigative Report and to submit written comments and/or questions about the content of the Investigative Report to the Investigator 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 location and in a manner determined by the Title IX Officer. The time to submit written comments can be extended for a brief period if the Title IX Officer concludes that the additional time is warranted. In circumstances where an extension is provided to one party, it will be provided to the other party. Likewise, the 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.

- i. Photographs or any other copies of the Investigative Report are not allowed by a party or advisor. The comments submitted by the Parties may not exceed ten (10) double spaced pages unless the Title IX Officer determines that a higher page limit is necessary and appropriate. After reviewing the submissions, if any, from the Parties, the Investigator 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 will include any additional relevant information in the Investigative Report.
- ii. 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.
- iii. 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 Officer will inform the Parties of the identity of the Determination Officer. The Determination Officer may be employed by or engaged by the Conservatory for the purpose of conducting determination hearings under the Title IX Policy. The assigned Determination Officer shall have received training within one year of the date they are assigned by NEC on issues relating to sexual misconduct and hearing procedures. The Parties must inform the Title IX Officer in writing of any conflicts of interest in regard to the selected Determination Officer no later than three (3) calendar days after the Title IX Officer sends the notification of the assigned Determination Officer. If a conflict of interest is raised regarding the individual assigned, the Title IX Officer will consider the nature of the conflict and determine if a different person(s) should be assigned as the Determination Officer. The Title IX Officer may consult with other Conservatory personnel to discuss any conflicts of interest. The Title IX Officer's decision regarding any conflicts is final. Once the process for the Parties to

identify a conflict of interest is complete, the Title IX Officer will provide the Determination Officer with the Investigative Report and set a subsequent date for the Determination Hearing to determine responsibility.

- D. **Review and Determination by the Determination Officer.** The Determination Officer will make a determination as to whether or not the Respondent 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 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 Complaint subject to investigation under this Policy is adjudicated through a live hearing that can be conducted in person or virtually as determined by the Title IX Officer. The Parties will receive copies of policies and/or processes regarding the submission and consideration of evidence that may be used during a hearing. In addition, the following process shall apply:
- i. The Determination Officer will preside over the hearing and make the decision by a preponderance of the evidence as to whether or not the Respondent violated the policy provisions at issue. The Determination Officer has broad authority to determine the process, timing, and conduct of a hearing. For example, the Determination Officer 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.
 - ii. 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, the Parties must inform the Title IX Officer of the identity of any advisor who will accompany them to the hearing so that the Conservatory will know whether or not it needs to arrange for a Conservatory-provided advisor.
 - iii. At a time and manner deemed appropriate by the Determination Officer, the advisor for each party will be permitted to ask the other party and any witnesses 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 a party. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. The Conservatory reserves the right to take appropriate action regarding any advisor who the Determination Officer determines disrupts the process and/or who does not abide by the restrictions on their participation, which may include exclusion of the advisor

from the hearing and the appointment of an alternate Conservatory-provided advisor.

- iv. There may be restrictions on evidence considered by the Determination Officer, including, without limitation: (1) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless (a) they are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) they concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent; and (2) 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.
- v. 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 Determination 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.
- vi. If a party or witness does not appear and submit to cross-examination at the hearing, the Determination Officer may consider the party's or witness's prior statements as allowed by current federal guidance and/or federal case law in Massachusetts in effect at the time of the hearing, such as statements made during the investigation (for example, as set forth in the investigative report), emails, or text messages, or other statements that are deemed relevant consistent with Title IX regulations. The Determination Officer will not draw an inference about a 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. A party's non-participation in the process could have a substantial impact on the outcome.
- vii. If the Determination Officer determines that a party is responsible for violating this Policy, they will also determine Sanctions. The Determination Officer 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.
- viii. The 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 the Conservatory will provide the same protective measures as used in Section 6(B) of this Policy regarding review of investigative reports.

- F. **Notification of Investigation Outcome.** Not later than seven (7) business days after the Determination Officer's final determination of whether there has been a violation of the Policy, unless there is good cause for additional time, the Title IX Officer shall simultaneously provide both parties with written notice of (i) the outcome of the disciplinary proceeding and any sanctions imposed on the Respondent; and (ii) the procedures for either party to appeal the result of the disciplinary proceeding.

7. Appeals

A. The parties may appeal: (i) a decision to dismiss the formal complaint; and/or (ii) the Determination Panel's decision. Any appeals must be submitted to the Title IX Officer in writing within five (5) calendar days of the delivery of the applicable decision. 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, or Determination Officer 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. The Appellate Officer may be an NEC employee or be engaged by the Conservatory for the purpose of conducting appellate review under the Title IX Policy. As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Appellate Officer, the Parties should inform the Title IX Officer in writing of any conflicts of interest regarding the assigned Appellate Officer. The Title IX Officer will consider the nature of the conflict and determine if different individual(s) should be assigned to review the appeal. This decision regarding any conflicts is final.

D. Sanctions of all types may be imposed while an appeal is pending at the sole discretion of the Conservatory.

8. Additional Considerations

A. **Disability Accommodations.** The Conservatory is committed to ensuring that all community members, and applicants to NEC, have an equal opportunity to participate in an Education Program or Activity. 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 and Campus Life or designee (students) or Director of Human Resources or designee (employees or other community members). Any requested accommodations will be provided in consultation with the Title IX Officer to evaluate any impact on the rights or protections of any party or witness.

B. **Duty of Honesty.** The Parties and witnesses are obligated to be 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 by a Complainant or others 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.** The Parties and witnesses are obligated to cooperate with the Title IX Officer and any other personnel 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. The Duty of Cooperation does not apply to an individual's decision not to take part in this process out of consideration of constitutional rights in a criminal investigation involving the same or similar facts and circumstances.

D. **Amnesty.** To encourage students to refer incidents involving possible sexual misconduct or safety concerns, NEC generally will extend amnesty for drug and alcohol policy violations to students who report alleged Title IX prohibited conduct and/or gender-based misconduct, who participate in an investigation process, or who are helping someone to obtain support related to alcohol or drug consumption or to sexual misconduct or harassment. NEC may review the appropriateness of amnesty if the conduct at issue significantly harmed others or compromised community safety. A student for whom an alcohol or drug violation is waived may be referred for a meeting with an appropriate provider for substance abuse education.

E. **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 in this Policy 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 alters the process set forth in this Policy, it will contemporaneously communicate changes to the parties. The Conservatory also reserves the right to update the definitions in this Policy, including definitions of Title IX Prohibited Conduct, to create more clarity for our community and/or in response to changes in state and federal laws. If an updated definition changes any of the prohibited conduct, the Conservatory will communicate that to the parties of any pending proceeding.

F. **Delegation.** Where the Title IX Coordinator or any other NEC official or employee is listed as the designated point of contact for any role in the Policy, the Title IX Coordinator may designate another qualified member of the Conservatory community or an external actor to assume the role at issue, as necessary and appropriate.

G. **Withdrawal, Leave of Absence, or Inactive Status While Charges Are Pending.** If a Complainant withdraws from NEC or leave's NEC's employment, NEC will review the applicable standing requirements and guidance set forth by the U.S. Department of Education and/or other federal and state agencies to determine whether the matter may proceed. Should a student Respondent withdraw, take a leave of absence, or go on inactive status from NEC while charges are pending, the investigative process will typically proceed in the student's absence to a reasonable resolution absent exceptional circumstances as determined by the Title IX Coordinator. The student will not be permitted to enroll in an NEC program unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved. Should an employee Respondent decide to resign or take a leave from NEC while charges are pending, the investigation process will typically

proceed in the employee's absence to a reasonable resolution absent exceptional circumstances as determined by the Title IX Coordinator. The employee will not be eligible for employment with NEC unless all sanctions have been satisfied.

H. **Respect for Privacy.** NEC values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to the Policy. NEC will not disclose the identity of the Complainant and Respondent, except as necessary to carry out the processes and obligations under this Policy or as permitted under state or federal law. The U.S. Department of Education has indicated 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 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.

I. **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 Title IX Policy or of the Investigative Report. The Title IX Officer may make exceptions to this prohibition in limited circumstances if they conclude that a recording is warranted based upon advance written request of the Party that explains the need for the recording.

J. **Respondent 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.

VI. DEFINITIONS

This section provides definitions for certain terms used in this Policy.

Actual Knowledge or Notice to the Conservatory

The Conservatory has actual notice of alleged Title IX prohibited conduct if a report concerning the conduct is made to the Conservatory's 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 advocate or attorney, who provides support and advice to the party during any stage of the process set forth in the Title IX Policy.

Complainant

A person who, at the time they submit 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 by the Title IX Policy. 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.

Consent and Related Concepts

The Conservatory defines consent and the related concepts as follows:

- **Consent**
 - As used in this Policy, 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 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.

- **The Impact of Alcohol or Other Drugs on Consent**

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.

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 confusion over whether or not consent has been freely and clearly sought or given. It is 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 due to the use of alcohol or other drugs 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 Respondent should have been aware of the amount of the ingestion of alcohol or drugs by a Complainant, or of the extent to which the use of alcohol or drugs impacted a Complainant'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.

Education 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 submitted by a Complainant alleging that a Respondent engaged in conduct prohibited by the Title IX Policy and requesting that the Conservatory investigate the allegation. In exceptional situations, the Title IX Officer may sign a formal complaint in place of a Complainant. 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 Complainant under the Title IX Policy shall receive all requisite rights. Similarly, the Respondent will receive the name of the Complainant, written notice as described in the Formal Complaint section of the Title IX Policy, and all other requisite rights.

Parties

The Complainant(s) and the Respondent(s). The Parties are referred to individually as a "party."

Prohibited Conduct

As used in the Title IX Policy, "prohibited conduct" refers to all conduct identified in the "Title IX Prohibited Conduct" section of the Title IX Policy, as well as to any additional potential violations of other NEC policies being consolidated for investigation in accordance with the provisions of this Policy.

“Title IX prohibited conduct” refers to the categories of prohibited conduct defined by the regulations implemented by the DOE in the federal Title IX regulations.

Relevant

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.

Respondent

A person reported to have engaged in conduct that could constitute Prohibited Conduct under 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 or another Conservatory policy, including the Gender-Based Misconduct 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 Respondent is found to have violated the Title IX Policy or other NEC policies, a determination of appropriate sanctions will include consideration of the nature and circumstances of the misconduct; the impact of the misconduct on the Complainant and/or on others in the Conservatory community; the disciplinary history of the Respondent; 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 Complainant or the Respondent 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.

Policy Last Updated August 16, 2023

Appendix III: Gender-Based Misconduct Policy

Revised August 2023

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

New England Conservatory's Gender-Based Misconduct Policy

I. INSTITUTIONAL VALUES, PURPOSE AND SCOPE OF POLICY

New England Conservatory (NEC or the "Conservatory") is committed to maintaining a safe and healthy educational and work environment in which no member of the NEC community is, on the basis of sex, including sexual orientation or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any NEC program or activity. NEC prohibits all of its community members from engaging in any and all forms of gender-based misconduct. Gender-based misconduct is a broad term which encompasses unwelcome conduct of a sexual nature. This Gender-Based Misconduct Policy (the "GBM Policy" or this "Policy") is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including: relevant sections of the Violence Against Women Reauthorization Act (VAWA); Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Massachusetts laws that prohibit discrimination on the basis of sex, sexual orientation, and gender identity. It does not preclude application or enforcement of other NEC policies.

It is the policy of NEC to provide educational, preventative, and training programs regarding gender-based misconduct; to encourage reporting of incidents; to respond promptly and equitably to gender-based misconduct in a manner that is not deliberately indifferent; to prevent incidents of gender-based misconduct from denying or limiting an individual's ability to participate in or benefit from NEC's programs or activities; to offer to the parties supportive measures as appropriate, as reasonably available, and without fee or charge; and to provide prompt and equitable methods of resolution.

Violations of this Policy may result in the imposition of sanctions ranging from an admonition or warning up to, and including, termination, dismissal, or expulsion. The remedies designed to restore or preserve equal access to NEC's programs or activities may range from course-related adjustments and no contact orders to restrictions on access to campus, campus locations, or campus activities. Retaliation against an individual for making a report or complaint of gender-based misconduct, or for participating or refusing to participate in any proceeding regarding such a complaint, or for opposing discriminatory practices is prohibited.

In August 2020, the federal government updated regulations implementing Title IX of the Education Amendments of 1972 ("Title IX"). These regulations prescribe specific procedures that NEC must follow when addressing reports concerning conduct that falls within the scope and jurisdiction of Title IX. Accordingly, the procedures set forth in NEC's Title IX Sexual Misconduct Policy (the "Title IX Policy") will be used to address reports received by the Conservatory which allege conduct that falls within the scope and jurisdiction of the federal Title IX regulations. The scope and jurisdiction of NEC's Gender-Based Misconduct Policy is more expansive than the scope and jurisdiction of NEC's Title IX Policy. This Gender-Based Misconduct Policy is intended to address reports alleging that a member of the NEC community has engaged in gender-based misconduct which does not fall within the scope and jurisdiction of the Title IX Policy. Matters that may be addressed under this Policy include complaints submitted by individuals who are neither currently affiliated with NEC nor seeking to participate in Conservatory programs or activities; complaints concerning conduct that reportedly occurred in a location outside the

United States or where NEC did not exercise substantial control; and alleged gender-based misconduct that does not constitute Prohibited Conduct under the Title IX Policy, but which would violate NEC's conduct expectations and/or applicable state and federal laws, such as Title VII of the Civil Rights Act of 1964 or Massachusetts General Laws c. 151 B.

If NEC receives a complaint alleging that a Respondent engaged in conduct that potentially violates both NEC's Title IX Policy and other Conservatory policies, including this Gender-Based Misconduct Policy, NEC's Title IX Coordinator may within their discretion, and in alignment with federal law, choose to resolve some or all of the non-Title IX charges pursuant to the process in the Title IX Policy and will contemporaneously inform all parties of such determinations. To the extent that additional alleged violations of NEC policies other than gender-based misconduct arise in the context of this Policy, such related allegations may be addressed in accordance with the process in this Policy. The Title IX Coordinator will consult with relevant NEC administrators, such as the Dean of Students and/or Director of Human Resources, in making such a determination and contemporaneously inform all parties of such determinations.

Allegations of gender-based misconduct involving any member of the NEC community, regardless of where it occurred, should be reported to the Title IX Coordinator:

Katrina Chapman, Title IX Coordinator

Katrina.Chapman@necmusic.edu

Tel: 617-585-1299

II. RESOURCES, EMERGENCY ASSISTANCE, AND SUPPORTIVE MEASURES

NEC offers resources and supportive measures to assist NEC students and employees who disclose they have experienced conduct prohibited by this Policy. All of the resources and supportive measures identified in this section are available regardless of whether the NEC student or employee chooses to submit a formal complaint under this Policy or participates in either an NEC investigation or hearing, or a criminal process.

NEC encourages all individuals who have experienced sexual assault to promptly seek appropriate medical attention and to preserve any evidence. NEC's Title IX Coordinator, the Dean of Students and Campus Life, or Director of Public Safety can assist with referrals for an evidence collection exam at an appropriate hospital in cases of recent sexual violence.

A. EMERGENCY ASSISTANCE AND SUPPORTIVE MEASURES

Any person who believes they may be at immediate risk of harm should dial 911. NEC also operates a 24-Hour Campus Security and Dispatch, which can be accessed 24 hours a day at 617-585-1777, or extension 1777 from any campus phone.

NEC's Title IX Coordinator is available to assist with providing supportive measures (as defined in the Definitions section of this Policy) whether or not a student or employee chooses to bring a formal complaint under this Policy. 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.

The Title IX Coordinator and/or the Director of Public Safety can provide NEC students and employees with information and assistance concerning their options to notify or decline to notify local law enforcement of a crime (including certain forms of sexual misconduct) and to seek protective orders through the courts. NEC community members who have obtained a court-issued protective order should promptly provide the Title IX Coordinator or Director of Public Safety with a copy so that NEC can help to enforce the orders. The Title IX Coordinator or Director of Public Safety should also be notified when such orders are modified, extended, or rescinded.

The Title IX Coordinator can assist NEC students or employees in requesting that NEC Public Safety issue a No Trespass Order prohibiting access to campus to someone with whom they want to avoid contact. A No Trespass Order may be an option if the person with whom they want to avoid contact is not affiliated with NEC and has no right to be on campus – for other situations, a removal from campus would need to meet the standards for emergency removal or administrative leave described in this Policy. The Title IX Coordinator can also assist with obtaining an NEC-issued No Contact Order (NCO) or No Communication Directive (NCD) between an individual who reports experiencing conduct prohibited by this Policy and the person who is reported to have violated the Policy. NEC’s Title IX Coordinator provides NEC Public Safety with copies of No Contact Orders (NCOs) issued by the Title IX Office.

B. MEDICAL

There are multiple reasons why individuals who have experienced sexual misconduct may seek medical care at different times, such as due to a physical injury, sexually transmitted infection and HIV prophylaxis, concerns regarding pregnancy, and/or for a forensic medical exam to preserve evidence. NEC encourages individuals who have experienced sexual misconduct to seek assistance from a medical provider at any time, if needed. A medical provider can provide routine and emergency medical services, as well as information concerning any health care concerns related to sexual misconduct, in a confidential medical setting.

To collect and preserve physical forensic evidence for potential criminal prosecution, an individual should seek a forensic exam, which is referred to as a Sexual Assault Nurse Examination (SANE). There is a limited window of time (typically 5 days or 120 hours) following sexual assault to preserve physical and other forms of evidence. Gathering evidence does not commit an individual to any course of action. The decision to gather any evidence and seek medical attention is confidential and may preserve options through the criminal justice system. During the course of a forensic exam, concerns regarding physical injury, risk of pregnancy, and prophylaxis can also be addressed.

Several hospitals within the Boston-area are designated SANE Hospitals, including:

Beth Israel Deaconess Medical Center

330 Brookline Avenue, Boston, MA

1-617-667-7000

Boston Medical Center

Boston Medical Center Place, Boston, MA

1-617-638-6800

Brigham & Women's Hospital

75 Francis Street, Boston, MA

1-800-294-9999

Massachusetts General Hospital

55 Fruit Street, Boston, MA

1-617-726-2000

Massachusetts law requires medical personnel to report to law enforcement when an individual seeks medical treatment related to sexual assault. This report does not include the patient's name, address, or other identifying information. The report does include a general location of where the assault occurred, if known by medical personnel. For additional information see <https://www.mass.gov/info-details/section-iii-mandatory-reporting#mandated-reporting-for-ma-san-es->.

C. CONFIDENTIAL RESOURCES

NEC recognizes there are individual and societal barriers to reporting and not every individual who experiences sexual misconduct will choose to report to NEC or local law enforcement. NEC offers confidential resources for those individuals who are seeking support and do not want to report sexual misconduct to the Title IX Coordinator or to an NEC employee who is required to share information about their report with NEC's Title IX Coordinator.

Students and employees seeking to talk to someone at NEC concerning sexual misconduct, without making a report to NEC or initiating any action or investigation by NEC, may contact confidential resources. Discussing sexual misconduct with a confidential resource will also not result in a report to law enforcement or a state agency, unless the report concerns abuse of minors (under the age of 18), abuse by a caregiver, homicidal ideation, or suicidal ideation, in which case law enforcement or a state agency must be notified. As noted in Part II. A. of this Policy (Emergency Assistance and Supportive Measures), certain medical personnel must also report to the local police and state limited demographic data (without a patient's name, address, or other identifying information) when an individual who has experienced rape or sexual abuse seeks medical treatment.

The following NEC resources are confidential:

NEC Counseling Center (Students): The Counseling Center provides students with access to non-emergency medical care and/or counseling appointments with trained and credentialed counselors. The Counseling Center can be contacted at 617-585-1284. NEC students can also connect with a counselor through Assist@NEC, which is available 24 hours a day, 7 days a week at 833-434-1217. The counselors of the Counseling Center and Assist@NEC are bound by professionally and legally recognized confidentiality requirements that prohibit the release of information without an individual's express written consent except as required by law.

Employee Assistance Program (Employees): Staff and faculty can access referrals to medical, counseling, and additional forms of support through NEC’s confidential third-party Employee Assistance Program, *Employee Connect*, by calling 1-888-628-4824 or visiting www.GuidanceResources.com. Additional information on *Employee Connect* is posted on ADP. Employees can also contact Human Resources with any questions.

External Confidential Resource - Tufts Medical Center (Students): NEC students receive confidential student health services through NEC’s partnership with the Tufts Center for Collegiate Wellness. These health services may include, without limitation, urgent care, expedited referrals to speciality care, and after hours resources through telehealth or the Emergency Department. Students can call the Collegiate Center for Wellness at 617-636-6006 to schedule an appointment or to request more information. The phone line’s hours of operation are Monday-Friday from 9:00 a.m. to 5:00 p.m.

External Confidential Resource (BARCC – Students and Employees): In addition to offering confidential resources through the Health and Counseling Center (students) or Employee Assistance Program (employees), the Boston Area Rape Crisis Center (BARCC) offers confidential services to NEC students and employees. BARCC provides advocacy and assistance in working with local police, hospitals, legal services, and campus offices. BARCC advocates are not required to make a report to NEC. Detailed information about BARCC’s services, including a 24-hour phone hotline (800-841-8371) and a web chat hotline can be accessed here: <https://barcc.org/information/contact/>.

Off-campus counselors, advocates, and health care providers (such as contacts made through the Employee Assistance Program, BARCC, or the community resources identified in Part D below) will generally maintain confidentiality and not share information with NEC unless the individual requests the disclosure and signs a consent or waiver form. However, there are some circumstances when these providers may have reporting or other obligations under applicable law, including, without limitation: making reports to governmental agencies in situations involving minors; a requirement to provide testimony in response to a subpoena or court order; or notifying relevant parties when an individual is at risk of imminent harm to self or others.

D. ADDITIONAL COMMUNITY RESOURCES

There are various organizations that provide crisis intervention, counseling, and medical services, as well as assistance in interfacing with the criminal/civil legal system. Members of the NEC community are encouraged to use the resources that are suited to their needs, whether on or off campus. Some resources in the local Boston area include:

COMMUNITY RESOURCES

- Asian Task Force (ATASK): Serves survivors of domestic violence; 24-hour Multilingual Helpline:
 - 617-338-2355
 - <http://www.atask.org/site/>
- Fenway Community Health Violence Recovery Program (VRP): Specialize in working with LGBTQI community.
 - 617-927-6250 or 800-834-3242
 - <https://fenwayhealth.org/care/behavioral-health/violence-recovery/>

- Casa Myrna: Serves survivors of relationship violence. Advocates are bilingual in English and Spanish. Safelink Domestic Violence 24-Hour Helpline:
 - 877-785-2020
 - <https://casamyrna.org/get-support/safelink>

ADMINISTRATIVE AGENCY RESOURCES

- Massachusetts Commission Against Discrimination (MCAD)
 - 617-994-6000
 - <https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>
 - The MCAD enforces certain Massachusetts laws prohibiting sex discrimination and sexual harassment.
- Equal Employment Opportunity Commission (EEOC)
 - 800-669-4000
 - <https://www.eeoc.gov/field-office/boston/location>
 - The EEOC enforces federal law prohibiting sexual discrimination and sexual harassment in the workplace.
- U.S. Department of Education, Office for Civil Rights (OCR)
 - 617-289-0111
 - <https://www2.ed.gov/about/offices/list/ocr/index.html>
 - The OCR enforces federal laws prohibiting discrimination against students, including Title IX.

III. PROHIBITED CONDUCT UNDER THE GENDER-BASED MISCONDUCT POLICY

This section of the Policy identifies and defines Prohibited Conduct.

Gender-Based Misconduct

Gender-based misconduct is a broad term which encompasses unwelcome conduct of a sexual nature that is prohibited by the Conservatory. The term gender-based misconduct includes, but is not limited to, gender-related harassment, sexual harassment, sexual assault, sexual violence, rape, intimate partner abuse, domestic violence, and stalking that does not fall within the scope or jurisdiction of NEC's Title IX Policy. Gender-Based Misconduct may also include an attempt to engage in Sexual Misconduct as defined by this Policy. Gender-based misconduct affects individuals of all genders, gender identities, gender expressions, and sexual orientation, and does not discriminate by racial, social, or economic background.

Sexual Misconduct

Sexual Misconduct as defined by this Policy includes:

- **Non-Consensual Sexual Penetration** – Any sexual penetration (anal, oral, or vaginal), however slight, with any part of one's body or with any object, upon another person, without consent, penetration achieved by the use or threat of force or coercion, or where an individual is incapacitated. Non-consensual penetration includes both situations where a person's body is penetrated without consent and situations where a person is forced, caused or made, without their consent, to penetrate another person's body.

- **Non-Consensual Sexual Contact** – Any intentional touching of a sexual nature, however slight, with any part of one’s body or any object, upon another person, without consent, or any disrobing of another person without that person’s consent. This includes, without limitation, non-consensual sexual contact achieved by the use or threat of force or coercion, 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. 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.

Intimate Partner Abuse

Any abusive behavior between those who are in or have been in an intimate or romantic relationship with each other (this type of abuse may also be referred to as dating violence, domestic violence, or relationship violence). Abusive behavior may be emotional, psychological, physical and/or sexual, including any behavior that one person in an intimate or romantic relationship uses in order to control the other. Intimate partner abuse or violence may be a single act or a pattern of behavior in relationships. Examples include, but are not limited to: acts of violence or physical harm; threats to cause another physical, emotional, or other harm; demeaning or derogatory communications that amount to abusive behavior; preventing contact with family or friends; property damage; threats of violence to one’s self, one’s self, one’s sexual or romantic partner or to the family members or friends of the sexual or romantic partner.

Certain forms of sexual harassment, sexual misconduct, 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 other party.

Sexual Harassment

Any unwelcome sexual, sex-based, and/or gender-based verbal, written, online, and/or physical conduct which also falls within the definition of hostile environment harassment and/or quid pro quo sexual harassment.

- Hostile environment sexual harassment exists where harassment is sufficiently severe, persistent, or pervasive, and is objectively offensive such that it unreasonably interferes with, limits or denies someone’s ability to participate in or benefit from the Conservatory’s educational, employment, social, residential, or other programs or activities. In assessing whether conduct is hostile environment sexual harassment, the totality of the circumstances will be considered.
- Quid pro quo sexual harassment exists when there are unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, where submission to, or rejection of, such conduct results in adverse educational or employment consequences. Quid pro quo harassment may also exist when an explicit or implicit threat of adverse action or a promise of a benefit is conditioned on submission to, or rejection of, such requests.

- Behaviors that may constitute sexual harassment include but are not limited to:
 - o Sexual advances, regardless of whether or not they involve physical touching;
 - o Requesting or demanding sexual favors with respect to employment, academic or other NEC activities;
 - o Lewd or sexually suggestive comments, jokes, gestures, or innuendos;
 - o Displaying sexually suggestive objects or pictures;

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 to 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.

Retaliation

Acts or attempts to retaliate or seek retribution against individuals who report conduct prohibited by this Policy, assist another in making a report, or participate in an investigation of the report, including the Complainant, Respondent, or any individual or group of individuals involved in the investigation and/or resolution of an allegation. Retaliation includes subjecting a person to an adverse employment or educational action because they made a complaint under any portion of the Gender-Based Misconduct Policy, or responded to, assisted or participated in any manner in an investigation under the Gender-Based Misconduct Policy. Retaliation may also include abuse or violence and other forms of harassment. Any individual or group of individuals, not just a Respondent or Complainant can engage in retaliation.

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, NEC retains discretion to review the allegation under another NEC policy.

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 circumstances⁵ to be discussed with NEC's Human Resources office, this is an absolute prohibition.

Amorous Relationships Between Individuals of Different Conservatory Status

Unless specific written permission is provided in extremely limited circumstances to be discussed with NEC's Human Resources office, amorous relationships between individuals of different Conservatory status are prohibited.

In a personal relationship between a faculty or staff member and an individual for whom that person has no current professional responsibility, the faculty or staff member may unexpectedly be placed in a position of responsibility for the other person's instruction or evaluation (e.g. being called upon to write a letter of recommendation or to serve on an admissions or selection committee involving the

⁵ NEC requires notice of any existing relationships that may exist. 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 NEC may put in place expectations governing the provision of academic or professional opportunities between anyone in such a relationship.

individual). In addition, relationships between individuals of different Conservatory status can lead to perceptions of inequitable academic or professional advantage. Although graduate students, teaching fellows, tutors, and undergraduate course assistants may be less accustomed than faculty 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 being in a position of authority.

IV. STANDARD OF PROOF

Preponderance of the Evidence. The standard of evidence that NEC uses to determine responsibility for violating this Policy is the preponderance of the evidence. This means that in reviewing allegations of Prohibited Conduct, the totality of the evidence will be considered to determine whether the Respondent is more likely than not to have been responsible for a violation of the Gender-Based Misconduct Policy.

- The preponderance of the evidence standard is not the standard used for criminal culpability in most jurisdictions and a determination of responsibility under the Gender-Based Misconduct 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 Gender-Based Misconduct Policy, or other Conservatory policies, were not violated. The two procedures are significantly different and use different standards for determining violations.

V. REPORTING PROHIBITED CONDUCT AND INVESTIGATION PROCESS

Reports of Prohibited Conduct under this Policy will follow this process.

NEC encourages community members who have experienced any potential gender-based misconduct to inform the Title IX Coordinator, so that the Title IX Coordinator can provide information concerning supportive measures and available reporting options.

NEC can address reports of violations of this Policy most completely when the Conservatory is able to identify and communicate with the people reporting policy violations. The benefits of direct reporting include a greater ability for NEC to follow-up on the information in the report and to provide resources, support, and options to those reporting. However, NEC also provides individuals with the option to submit an anonymous report to NEC's Title IX Coordinator without disclosing their identity or the identity of others or requesting any action. Those wishing to submit a report anonymously may submit the online form titled Violations of Title IX and Gender-Based Misconduct Policies (available on NEC's website here: <https://necmusic.edu/student-care-and-concern>) without personal identifying information. Students and employees may also file an anonymous report through EthicsPoint, a third-party service party that permits the submitter to submit an anonymous report and to exchange anonymous messages with NEC. EthicsPoint can be accessed by students by logging into "My NEC" and navigating to the Security & Safety tab. For employees, EthicsPoint is accessed via the ADP website, available through the OneLogin webpage: <https://necmusic.onelogin.com/portal>.

If a report is submitted anonymously, NEC will review the information in the report, but may be limited in its ability to take action with regard to the information that is shared.

The following is the process by which the New England Conservatory will investigate a report of a violation of the Gender Based Misconduct Policy ("GBM Policy").

1. Initial Steps

After receiving an informal report of conduct that could fall under the GBM Policy, the Title IX Coordinator, or their designee (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 individuals involved in a matter and to help the individuals determine the next appropriate steps, whether under this Policy or a referral to another Conservatory policy.

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

- A. **Contact Complainant.** The Title IX Officer will contact the Complainant (if known) 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. **Review Supportive Measures.** Regardless of whether a Complainant decides to participate in an adjudication process, they may be entitled to supportive measures as defined in the Definitions section of this Policy.
- C. **Review Reporting Options.** 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. Depending on the nature of the report, the Title IX Officer may also advise the Complainant of the opportunity to make a report to local law enforcement. Such a report will not change any obligation of NEC to investigate the matter, but it may briefly delay the timing of the investigation, such as if a law enforcement agency requests that NEC delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct. NEC does not use the same process or standard of proof as a criminal process. Typically, NEC will only inquire about criminal processes if they impact an individual’s ability to access or use NEC’s process. In no instance will a concurrent criminal proceeding, by itself, lead to an adverse inference against the Respondent.

2. Formal Complaint

If the Complainant wishes to move forward with an investigation under this Policy, the Complainant must provide a statement of allegations in writing, referred to in this Policy as the formal complaint. A Complainant or the Title IX Coordinator may submit a formal complaint at any time by preparing a written document that is physically or electronically signed by the Complainant or Title IX Coordinator and alleges prohibited conduct as defined in this Policy. The formal complaint may be submitted to the Title IX Coordinator through any of the following mechanisms:

- a. By delivering, mailing, or otherwise transmitting the formal complaint to the Title IX Coordinator;
- b. By emailing the formal complaint to katrina.chapman@necmusic.edu;
- c. By completing a Title IX and Gender Based Misconduct Formal Complaint Form; or
- d. Through any other means that results in the Title IX Coordinator receiving the person’s signed formal complaint.

If the Complainant declines to proceed with a Title IX investigation and does not submit a formal complaint, the Title IX Officer will weigh that request against NEC's obligation to address any risk of harm to the community based on the allegations in a report and may sign a formal complaint against another party if deemed necessary. In such situations, the Title IX Officer and/or NEC is not a party and will provide notice, as set forth below, to both the Complainant and Respondent.

As soon as practicable after receiving a formal complaint, and with sufficient time to prepare for any interview or meeting, the Title IX Coordinator will provide a written notice to all known Parties that will include: a description of the allegations as they are understood at the time, including, to the extent known the name(s) of the parties, the date, time, 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 Respondent 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.

In appropriate circumstances, to address imminent threats posed to any person's physical health or safety as a result of the allegations in a formal complaint, NEC may evaluate whether to remove a Respondent from its Education Program and Activities on an emergency basis or to place an employee on leave during the Investigation Phase.

- a. Emergency Removal. NEC may remove a Respondent from an Education Program or Activity on an emergency basis following an individualized safety and risk analysis that determines there is an immediate threat to the physical health or safety of any individual arising from the allegations of Prohibited Conduct. The Respondent shall have the opportunity to challenge the decision immediately following the removal.
- b. Administrative Leave. NEC may place an employee on leave during the Complaint Resolution Process.

Upon reviewing any written complaint materials, if the Title IX Officer determines that the conduct would, if proven, be prohibited by this Policy, the matter will be referred to the investigation phase of this process.

If a formal complaint alleges that a Respondent engaged in conduct that potentially violates both NEC's GBM and other NEC policies, the Title IX Officer may within their discretion choose to resolve some or all the non-GBM charges pursuant to the processes in the GBM Policy and will contemporaneously inform all parties of such determinations. This decision will be made at the outset of the notice of the complaint or as soon as reasonably practicable after the allegations become clear. In compliance with law, any allegations of conduct that meet the definition of Title IX Prohibited Conduct as defined by NEC's Title IX Policy must be resolved pursuant to the process in NEC's Title IX Policy.

3. Dismissal of Formal Complaint

If a formal complaint is submitted that does not allege Prohibited Conduct, as defined in the section of this Policy titled "Prohibited Conduct Under the Gender-Based Misconduct Policy," it will be dismissed without limiting the Complainant'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 to evaluate alleged violations of NEC's prohibitions on discrimination and harassment.

A formal complaint may be dismissed by the Title IX Officer, in whole or in part, at any time if:

- a Complainant notifies the Title IX Officer in writing that they wish to withdraw the formal complaint or any allegation(s) contained in that formal complaint; or
- the Title IX Officer determines that specific circumstances will prevent NEC from gathering sufficient information to reach a determination on the formal complaint, or any allegations contained in the formal complaint.

If a formal complaint is dismissed under this section, the Title IX Officer will provide a Notice of Dismissal of the formal complaint to the Parties and information regarding how to appeal the decision.

4. The Investigation Phase

- A. **Notice of an Investigation.** If it is determined that an investigation will begin, the Title IX Officer will send a written notice to the Parties advising them that the preliminary review has concluded that the matter should be referred for investigation under this Policy.
- B. **Advisors.** Each party may have a single advisor or support person of their choice present during any formal disciplinary proceeding, including any related meeting or interview, held pursuant to the GBM Policy, which may include an advocate or counsel. A party may consult with their advisor during any meeting or interview. Advisors cannot act as a speaking advocate at a meeting or interview. NEC staff and internal/external personnel involved in the investigation phase may delay or terminate meetings or interviews, 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. Accommodations, including scheduling of interviews or reviews, generally will not be made for an advisor if they unduly delay the process. An advisor is not permitted to attend a meeting, interview, or other proceeding without the party they are advising being present unless they receive the advance approval of the Title IX Officer. NEC reserves the right to take appropriate action in response to an advisor who disrupts the investigation phase or determination meeting or who does not abide by rules and protocols regarding their participation, including, without limitation, to protocols identified in this 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, advisors are expected to maintain the privacy 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.

The Conservatory will typically address communications to the Parties and not to any advisor (even an attorney-advisor or parent-advisor).

- 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”).⁶ The Investigator will be a qualified and trained individual employed by or engaged by the Conservatory for the purpose of conducting investigations under the GBM Policy, and shall have received training on issues relating to sexual misconduct and investigatory procedures to protect the safety and rights of students and employees within a year of the date that they are designated by NEC to conduct the investigation.

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, 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, to the extent possible, will include separate interviews with the Complainant, Respondent, and any relevant witnesses. The Investigator 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 Investigators with the identification of potential witnesses who have specific information about the reported conduct and with whom they would like the Investigator to speak. The Parties also have the opportunity (and are expected) to provide the Investigator any documentation or other items or questions they would like to be considered. All information described in this section should be presented to the Investigator 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 during the Investigation Phase and without delay upon becoming aware of it. The Investigator 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 the 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 Investigator will not consider information related to either party’s sexual history unless deemed relevant to the incident in question.

⁶ All references to the “investigator” in this Policy should be read to include “investigators” in the event that NEC designates more than one investigator to conduct the investigation of the formal complaint.

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. The 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, in consultation with the facilitator, 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 their sole discretion.

5. Investigative Report and Determination of Responsibility by Determination Panel

A. **Content of the Investigative Report.** At the conclusion of the Investigation Phase, the Investigator will prepare an Investigative Report, which should include a summary of the factual information presented during the Investigation Phase and a separate section where the Investigator points out relevant consistencies or inconsistencies (if any) between all sources of information. Attached to 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.** The Parties will be given an opportunity to review the entire Investigative Report and to submit written comments and/or questions about the content of the Investigative Report to the Investigator 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 Title IX Officer. The time to submit written comments can be extended for a brief period if the Title IX Officer concludes that the additional time is warranted. In circumstances where an extension is provided to one party, it will be provided to the other party. 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 a party or their advisor. The comments submitted by the Parties may not exceed ten (10) double spaced pages unless the Title IX Officer determines that a higher page limit is necessary and appropriate. After reviewing the submissions, if any, from the parties, the Investigator 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 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, will be attached to the Investigative Report.
- C. **Assigning the Determination Panel.** The Title IX Officer will inform the Parties of the identity of the Determination Panel, which will typically include between one and three employees of the Conservatory.⁷ The assigned members of the Determination Panel shall have received training within one year of the date of the Determination Meeting on issues relating to sexual misconduct and hearing procedures. Students may not serve on a Determination Panel. The Parties must inform the Title IX Officer in writing of any conflicts of interest in regard to any of the members of the assigned Determination Panel no later than three (3) calendar days after the Title IX Officer sends the notification of the assigned Determination Officer. If a conflict of interest is raised regarding any individual assigned to the Determination Panel, the Title IX Officer will consider the nature of the conflict and determine if a different individual should be assigned to the Determination Panel. The Title IX Officer's decision regarding any conflicts is final.

Once the process for the Parties to identify a conflict of interest is complete and the members of the Determination Panel are finalized, the Title IX Officer will provide the Determination Panel with the opportunity to conduct an initial review of the Investigative Report and any exhibits. After this review, the Determination Panel has the authority to accept the Investigative Report without seeking additional investigation, or to ask the Investigator to conduct additional investigation on specific points prior to the Determination Meeting. If further investigation is required, the Parties will be notified and any information learned will be conveyed to the Parties at least five (5) days prior to the Determination Meeting.

- D. **Determination Meeting.** Once the Determination Panel has completed its initial review of the Investigative Report, the Title IX Officer will notify the parties of the date of a Determination Meeting in which the Determination Panel will consider the report and reach a decision as to whether there is a violation of the GBM Policy.

During this meeting, the Determination Panel has the option to request to interview the Parties and/or witnesses as deemed necessary in the Panel's discretion. The Parties and any witnesses will be notified in advance if the Determination Panel will request to interview them during the Determination Meeting and will receive copies of any policies regarding submission and consideration of evidence that will apply during the Determination Meeting. Parties and/or witnesses will be questioned by the Determination Panel individually and will not be present during any other party's or witness's testimony. The Parties may not directly question each other during a Determination Meeting. There may be restrictions on evidence considered during the Determination Meeting, including without limitation: (1) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that

⁷ 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 appoint a single Determination Panel member.

someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent; or (2) information protected under a legally recognized privilege is not relevant unless the person holding the privilege has waived the 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).

After reviewing the Investigative Report and interviewing the Parties and witnesses (if applicable), the Determination Panel will confer and reach a decision by a preponderance of the evidence as to whether or not the Respondent violated the policy provisions at issue and, if so, the Sanctions that will apply. If the Determination Panel determines the Respondent is responsible for violating this Policy, the Panel may request from the Conservatory information on prior sanctioning decisions so that they can apply a consistent sanction in the matter at hand.

- E. **Notification of Investigation Outcome.** Not later than seven (7) business days after the Determination Panel reaches a decision, unless there is good cause for additional time, 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.

6. Appeals

- A. The parties may appeal: (i) a decision to dismiss the formal complaint; and/or (ii) the Determination Panel's decision. Any appeals must be submitted to the Title IX Officer in writing within five (5) calendar days of the delivery of the applicable decision. 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, 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.⁸ The Appellate Officer may be an NEC employee or be engaged by the Conservatory for the purpose of conducting appellate review under the Title IX Policy. As soon

⁸ The Conservatory reserves the right to designate up to three individuals to review the appeal. The decision to appoint more than one Appellate Officer will be made based on the individual claims and the specific challenges raised on appeal. All references to the Appellate Officer in this Policy should be read to include "Appellate Officers" in the event that NEC elects to appoint more than one Appellate Officer.

as possible, but no later than three (3) calendar days after delivery of the identity of the Appellate Officer, the Parties should inform the Title IX Officer in writing of any conflicts of interest regarding the assigned Appellate Officer. The Title IX Officer will consider the nature of the conflict and determine if different individual(s) should be assigned to review the appeal. This decision regarding any conflicts is final.

- D. Sanctions of all types may be imposed while an appeal is pending at the sole discretion of the Conservatory.

7. Additional Considerations

- A. **Disability Accommodations.** The Conservatory is committed to ensuring that all community members, and applicants, have an equal opportunity to participate in an Education Program or Activity. 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 and Campus Life or designee (students) or Director of Human Resources or designee (employees or other community members). Any requested accommodations will be provided in consultation with the Title IX Officer to evaluate any impact on the rights or protections of any party or witness.
- B. **Duty of Honesty.** The Parties and witnesses are obligated to be 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 by a Complainant or others 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.** The Parties and witnesses are obligated to cooperate with the Title IX Officer and any personnel charged with implementing the GBM 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. The Duty of Cooperation does not apply to an individual’s decision not to take part in this process out of consideration of constitutional rights in a criminal investigation involving the same or similar facts and circumstances.
- D. **Amnesty.** To encourage students to refer incidents involving possible discrimination or safety concerns, NEC generally will extend amnesty for drug and alcohol policy violations to students who report alleged gender-based misconduct, who participate in an investigation process, or who are helping someone to obtain support related to alcohol or drug consumption or related to discrimination or harassment. NEC may review the appropriateness of amnesty if the conduct at issue significantly harmed others or compromised community safety. A student for whom an alcohol or drug violation is waived may be referred for a meeting with an appropriate provider for substance abuse education.
- E. **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 in this Policy 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 alters the process set forth in this Policy, it will contemporaneously communicate changes to the parties. The Conservatory also reserves the right to update the definitions in this Policy, including definitions of Title IX Prohibited Conduct, to create more clarity for our community and/or in response to changes in state and federal laws. If an updated definition changes any of the prohibited conduct, the Conservatory will communicate that to the parties of any pending proceeding.

- F. **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 appoint a qualified external person to assume the role at issue, as necessary and appropriate.

- G. **Withdrawal, Leave of Absence, or Inactive Status While Charges Are Pending. While Charges Are Pending.** If a Complainant withdraws from NEC or leave's NEC's employment, NEC will review the applicable standing requirements and guidance set forth by the U.S. Department of Education and/or other federal and state agencies to determine whether the matter may proceed. Should a student Respondent withdraw, take a leave of absence, or go on inactive status from NEC while charges are pending, the investigative process will typically proceed in the student's absence to a reasonable resolution absent exceptional circumstances as determined by the Title IX Coordinator. The student will not be permitted to enroll in an NEC program unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved. Should an employee Respondent decide to resign or take a leave from NEC while charges are pending, the investigation process will typically proceed in the employee's absence to a reasonable resolution absent exceptional circumstances as determined by the Title IX Coordinator. The employee will not be eligible for employment with NEC unless all sanctions have been satisfied.

- H. **Respect for Privacy.** NEC values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to the GBM Policy. NEC will not disclose the identity of the Complainant and Respondent, except as necessary to carry out the processes and obligations under this Policy or as permitted under state or federal law. The U.S. Department of Education has indicated 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.

- I. **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 GBM Policy or of the Investigative Report. The Title IX Officer may make exceptions to this prohibition in limited circumstances if they conclude that a recording is warranted based upon advance written request of the Party that explains the need for the recording.

- J. **Respondent 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.

VI. DEFINITIONS

This section provides definitions for certain terms used in this GBM Policy.

Advisor

A person chosen by a party, who may but need not be an advocate or attorney, who provides support and advice to the party during any stage of the process set forth in the GBM Policy.

Complainant

A person who alleges they experienced prohibited conduct by an NEC community member as defined by the GBM Policy.

Consent and Related Concepts

The Conservatory defines consent and the related concepts as follows:

- **Consent**
 - As used in this Policy, 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 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.

- **The Impact of Alcohol or Other Drugs on Consent**

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.

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 confusion over whether or not consent has been freely and clearly sought or given. It is 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 due to the use of alcohol or other drugs 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 Respondent should have been aware of the amount of the ingestion of alcohol or drugs by a Complainant, or of the extent to which the use of alcohol or drugs impacted a Complainant'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.

Education 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 submitted by a Complainant alleging that a Respondent engaged in conduct prohibited by the GBM Policy and requesting that the Conservatory investigate the allegation. In exceptional situations, the Title IX Officer may sign a formal complaint in place of a Complainant. 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 Complainant under the GBM Policy shall receive all requisite rights. Similarly, the Respondent will receive the name of the Complainant, written notice as described in the Formal Complaint section of the GBM Policy, and all other requisite rights.

Parties

The Complainant(s) and the Respondent(s). The Parties are referred to individually as a “party.”

Prohibited Conduct

As used in the GBM Policy, “prohibited conduct” refers to all conduct identified in the “Prohibited Conduct under the Gender-Based Misconduct Policy” section of the GBM Policy, as well as to any additional potential violations of other NEC policies being consolidated for investigation in accordance with the provisions of this Policy.

Relevant

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.

Respondent

An NEC community member who is reported to have engaged in Prohibited Conduct under the GBM Policy.

Sanctions

Punitive or educational measures imposed by the Conservatory in response to a determination that a Respondent has violated 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 Respondent is found to have violated the GBM Policy or other NEC policies, a determination of appropriate sanctions will include consideration of the nature and circumstances of the misconduct; the impact of the misconduct on the complainant and/or on others in the Conservatory community; the disciplinary history of the Respondent; 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 Complainant or the Respondent 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.

Policy Last Updated August 16, 2023

Appendix IV: Court Issued Protective Orders

ABUSE & HARASSMENT PREVENTION ORDERS

If you are experiencing sexual violence, including, without limitation, domestic violence, dating violence, sexual assault, staking, or other abuse and/or harassment that jeopardizes your personal safety and/or require shelter or immediate assistance, the SafeLink hotline is a statewide domestic violence and crisis hotline that is available 24 hours a day, seven days per week at (877)-785-2020. The SafeLink hotline can assist with identifying a domestic violence program or shelter. SAFEPLAN is the Massachusetts Office for Victim Assistance (MOVA) statewide court-based program that provides specially trained advocates to help victims of domestic violence, sexual assault, and stalking who are seeking protection from abuse. SAFEPLAN serves district and probate courts throughout the state and SAFEPLAN advocates are employed by multiple local community-based domestic violence and sexual assault agencies. Additional information about SAFEPLAN is available on the state website at <https://www.mass.gov/service-details/safeplan-program>.

There is no charge to get an abuse prevention order from a Massachusetts court. If you need help with getting an abuse prevention order, MOVA (<http://www.mass.gov/mova/>) provides the SAFEPLAN program to offer trained and certified advocates to provide assistance in many courts across the state.

Other courts programs also provide personnel (“advocate”) who can help you fill out the forms and go with you to the courtroom. In some cases, the advocate may be from a local domestic violence service provider. In other cases, District Attorney Office victim-witness advocates are available to assist in filing for an abuse prevention order (referred to as a “209A” order in reference to the applicable Massachusetts statute).

A list of Massachusetts based domestic violence service providers can be found at Jane Doe, Inc. (<http://www.janedoe.org/>). The organizations listed at this site provide resources on how to obtain and/or reach a court advocate.

HOW TO OBTAIN AN ABUSE PREVENTION ORDER (209A)

An abuse prevention order can be obtained from the Roxbury Trial Court located at 85 Warren Street, Roxbury, MA 02119 (Main Phone: 617-427-7000) during the court’s regular business hours. Business hours and directions are posted on the court’s website, <https://www.mass.gov/locations/roxbury-division-boston-municipal-court>. Proceed to and/or contact the Civil Clerk’s office and tell them you want to ask for an abuse prevention (209A) order. Personnel in the Civil Clerk’s office will be able to provide assistance locating the required forms needed to apply for the order.

If you are in crisis and courts are closed, you should contact NEC Public Safety or the City of Boston Police Department (District 4). NEC Public Safety can assist with contacting local police. The police can provide relevant forms to obtain an abuse prevention order and assist with contacting a judge. If the judge grants an abuse prevention order on an emergency basis, it will be in place temporarily until the next court business day, when you will be required to appear to request the order be imposed. The order will tell you which court to go to and when you need to be at the court.

The District 4 division of the City of Boston Police Department is located at 650 Harrison Avenue. Their telephone number is 617-343-4250, and the website is here: <https://bpdnews.com/district-d-4>.

HOW TO OBTAIN A HARASSMENT PREVENTION ORDER (258E)

An abuse prevention order can be obtained from the Roxbury Trial Court located on 85 Warren Street, Roxbury, MA 02119 (Main Phone: 617-427-7000) during the court's regular business hours. Business hours and directions are posted on the court's website, <https://www.mass.gov/locations/roxbury-division-boston-municipal-court>. Proceed to and/or contact the Civil Clerk's office and tell them you want to ask for a harassment prevention order (258E). Personnel in the Civil Clerk's office will be able to provide assistance locating the required forms needed to apply for the order.

If you are in crisis and courts are closed, you should contact NEC Public Safety or the City of Boston Police Department District 4, (617-343-4250). NEC Public Safety can assist with contacting local police. The police can provide relevant forms to obtain an abuse prevention order and assist with contacting a judge. If the judge grants an abuse prevention order on an emergency basis, it will be in place temporarily until the next court business day, when you will be required to appear to request the order be imposed. The order will tell you which court to go to and when you need to be at the court.

Upon receipt of a report that a member of the NEC community has experienced harassment and/or abuse (the complainant), NEC will contact the Complainant to offer support. This support may be coordinated in collaboration with relevant NEC offices, including NEC Public Safety, Office of Student Services (including the Dean of Students and Campus Life), Residence Life, Office of the Title IX Coordinator, Health Services, Counseling Services, and the Office of Human Resources. For example, if reasonably available, a complainant may be offered the opportunity for supportive measures, such as 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 NEC offices that may assist with an on-campus safety plan:

- NEC Public Safety – notifying law enforcement agencies, collecting evidence, facilitating transportation to the hospital, assistance with restraining orders and/or harassment prevention orders, placing a student on an escort list, assistance with transport to other institutions, providing information concerning rights and other security and/or case-related services.
- Dean of Students and Campus Life – assistance with implementing support, including classroom and curriculum requests.
- Residential Life – assistance with implementing support related to student housing in the residence hall.
- Title IX Coordinator – outreach to offer supportive measures, oversight of any NEC investigation pertaining to reported sexual abuse and/or harassment, assistance with identifying resources and guidance on relevant NEC policy.
- Office of the Registrar – assistance with changes to or removal of contact information such as: email address, web page directory information, telephone contact numbers, or online pictures.

Personally Identifiable Information (PII) about a complainant is treated as confidential in compliance with law and shared only with personnel with a specific need to know to perform their professional responsibilities, such as investigating a report or delivering resources or support services to the complainant. NEC does not publish the name of crime victims or report complainant PII in the campus Public Safety Department's Daily Crime Log or online. Complainants may request that NEC directory

information on file be removed from public sources by request; the Title IX Coordinator can provide assistance with requests pertaining to directory information.

On-Campus resources for individuals reporting harassment or abuse pursuant to NEC’s Title IX and Gender-Based Misconduct policies is as follows:

Organization	Telephone Number
Public Safety Department (Non-Confidential Resource)	617-585-1777
Office of Title IX Coordinator (Non-Confidential Resource)	617-585-1229
Health Services (Confidential Resource)	617-585-1284
Counseling Services (Confidential Resources)	617-585-1284
Office of Residence Life and Housing (Non-Confidential Resource)	617-585-1188

Resources in the Boston Area:

Organization	Telephone Number	Address
Boston Police, Fire & EMS Emergency	911	
Boston Police District 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 (BIMC)	617-667-7000	300 Brookline Ave. Boston
Asian Task Force Against Domestic Violence	617-338-2355	
Jane Doe Inc.	617-248-0922	
Gay Men’s Domestic Project	800-832-1901	
The Center for Violence and	617-667-8141	

Prevention and Recovery at BIMC		
The Network/La Red (Lesbian, Bisexual, Transgender)	617-423-SAFE (7233)	

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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 Policy to enhance the safety and security of our students. This Missing Student Policy applies to all NEC students, whether or not they reside in the residence hall.

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.

A. Reporting Missing Students

- Reports of a potentially missing student should promptly be made to the Office of Academic and Student Affairs, the Dean of Students and Campus Life, NEC's Resident Director, or any other NEC administrator.
- Response to missing student reports will generally be coordinated by the Dean of Students and Campus Life and the Director of Public Safety. Pursuant to federal law, any missing student report must be referred immediately to 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.
- A student living in the residence hall 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 who cannot be located 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.

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.

In accordance with law, 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.

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

Important Contact Information:

Dean of Students and Campus Life: Christina Davis (617) 585-1310

24 hour Public Safety: (617) 585-1777

Director of Campus Security: Eric Schiazza (617) 585-1125

Resident Assistant on duty phone: (857) 225-6530

Resident Director: (617) 585-1188

B. If An Off-Campus Student May be Missing:

In the event of concern that a student who lives off-campus may be missing:

1. Contact the Dean of Students and Campus Life (the Dean) or another NEC administrator who will refer the matter to the Dean.
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: (a) the Dean will call the student's designated emergency contact if on file with NEC; and (b) the Dean or Public Safety will notify the Boston Police.

C. If an On-Campus Student May be Missing:

1. Contact a Residence Life staff member who will contact the Resident Director.
2. The Resident Director will contact the student on their local phone number.
3. If the student does not answer, the Resident Director will: (a) contact the student's roommate (if applicable) to determine the last time the student was seen in the room; and (b) notify the Dean.
4. If the student was not seen by his/her roommate within the past 24 hours of the report, the Resident Director or the Dean will contact the student's instructors to determine whether or not the student has been attending classes and rehearsals.
5. If the Dean is unable to confirm the student has regularly been attending classes and rehearsals, the Dean or Resident Director will notify Public Safety of the reported student.
6. If the Dean and the Resident Director are not able to locate the student within 24 hours: (a) the Dean or Resident Director will call the student's designated emergency contact if on file with NEC; and (b) the Dean or Public Safety will notify the Boston Police.

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 1st of any year and ending on August 31st 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: Anti-Bullying Policy

The Commonwealth 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 and Campus Life. Bullying, if substantiated, may result in discipline up to, and including, suspension or expulsion.

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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:

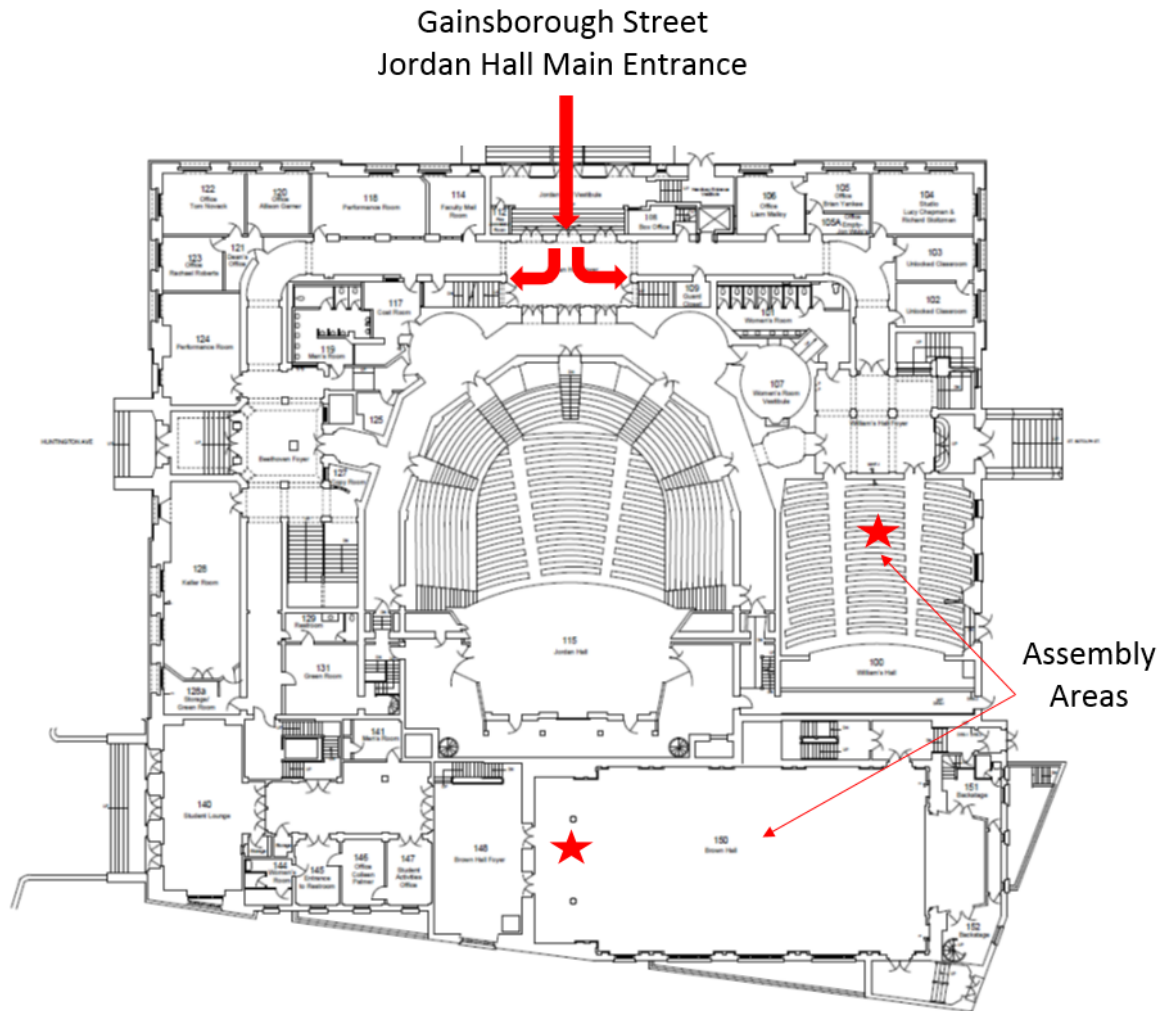
- Coffee pots (including Keurig style),
- Electric tea kettles,
- Rice cookers,
- Electric blankets,
- Heating pads,
- Irons,
- Steamers,
- Toasters,
- Toaster ovens,
- Crock pots,
- Open flame burners,
- Immersion heaters,
- Halogen lamps,
- Lava lamps or any other device containing a heating element,
- 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 that use a heat source to melt wax or any wax like substance are not permitted
- 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.

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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

