# UNIVERSITY OF NEW ENGLAND'S TITLE IX GRIEVANCE POLICY FOR EMPLOYEES

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UNIVERSITY OF NEW ENGLAND'S TITLE IX GRIEVANCE POLICY FOR ADDRESSING COMPLAINTS OF SEX DISCRIMINATION AND SEX-BASED HARASSMENT FOR EMPLOYEES AND OTHERS AS A PARTY BUT NOT INVOLVING A STUDENT AS A PARTY

(August 1, 2024.) Please refer to https://www.une.edu/title-ix-civil-rights-compliance for the most current Policy.

This Policy has several components that can be accessed through the use of the hyperlinks provided below. Those components are:

- Scope and applicability of this Policy
- Resources to address concerns regardless of a complaint is made;
- Reporting potential violations of this Policy
- Procedures for adjudicating a complaint

General Rules Application

This Policy applies to reports of sex discrimination when an employee or others who were participating or attempting to participate in UNE's education program or activity at the time of the alleged sex discrimination is a party and no student is a party.

The University of New England ("the University" or "UNE") is committed to maintaining a fair and respectful environment for living, work, and study. To that end, and in accordance with federal and state law and University policy, the University prohibits any member of the faculty, staff, administration, trustees, student body, vendors, volunteers, or visitors to campus, whether they are guests, patrons, independent contractors, or clients, from harassing and/or discriminating against any other member of the University community because of that person's race, sex, sexual orientation, gender identity and/or expression, ethnicity or national origin, religion, age, creed, color, genetic information, physical or mental disability, HI(age)1s(pt)Lytat,(or

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## II. NON-DISCRIMINATION AND EQUAL OPPORTUNITY

Consistent with federal and state law and University policy, the University of New England is committed to the fundamental concept of equal opportunity for all of the members of the University community. The requirements and protections of this Grievance Procedure apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by applicable federal, state or local law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness.

This Policy applies to sex discrimination and sex-based harassment. This Policy is enforced by Federal Law under Title IX of the Education Amendments of 1972 and its implementing regulations, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended by the Violence Against Women Reauthorization Act of 2013, Title VII of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. It is also enforced under Maine law through the Maine Human Rights Act at 5 M.R.S.A. section 4551 et. seq, as well as other applicable federal and Maine state laws. Inquiries regarding compliance with these statutes may be directed to:

| | | | |
|---|---|---|---|
| Angela Shambarger | 207-221-4554 | ashambarger@une.edu | 11 Hills Beach Road, Biddeford, ME 04005) |
| Bobbie Kallner | 207-602-2339 | bkallner@une.edu | 11 Hills Beach Road, Biddeford, ME 04005) |
| Office of Civil Rights, Department of Education | 617-289-0111 | OCR.Boston@ed.gov | 8th Floor 5 Post Off 339 T9.00lS237 0 Td[(O)2 ( (o)1 |

It also includes excluding a

- where the actor knew or should have known the individual is incapacitated by drugs and/or alcohol or was physically or mentally unable to make informed or reasonable judgments or provide consent.

For purposes of this definition, sexual intercourse includes vaginal, anal, or oral penetration, no matter how

protected from that person's acts under the domestic or family violence laws of Maine.

### *(F) Stalking*

As defined in the VAWA amendments to the Clery Act, is a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, theirs, or another's safety or to suffer substantial emotional distress.

"Course of conduct" means two or more acts, including but not limited to acts in which the stalker directly or 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.

"Reasonable person" means a person under similar circumstances and identities with the Complainant. "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling. Stalking includes the concept of cyberstalking, a particular form of stalking in which electronic media is used.

### *(G) Non-Consensual Sexual Contact (Includes "Fondling")*

Non-Consensual Sexual Contact is contact with the intimate parts of another individual (including but not limited to contact with breasts, buttocks, groin, genitals, or other intimate body parts) for the purposes of sexual gratification through the

- use of threat or force,
- without effective consent, or
- where the actor knew or should have known the individual was incapacitated or physically or mentally unable to make informed, reasonable judgments or provide consent.

### *(H) Sexual exploitation*

The taking non-consensual or abusive sexual advantage of another for one's own benefit or the benefit of anyone other than the individual being exploited. Sexual exploitation may include but is not limited to:

- secretly observing the sexual actions of another or allowing others to secretly observe the sexual activity without the knowledge or consent of the other party;
- sharing visual images, audio recordings, videos of another individual in a state of undress or of a sexual nature without consent;
- causing an individual to prostitute themselves through force, intimidation, or coercion;
- knowingly exposing another individual to a sexually transmitted disease without their knowledge;
- exposing one's genitalia or causing another person's genitalia to be exposed without effective

consent.

### *(l) Sexual Harassment*

In addition, pursuant to the Maine Human Rights Act and Title VII of the Civil Rights Act of 1964, the University defines Sexual Harassment here and in the University Personnel Handbook to include any unwelcome sexual advances, requests for sexual favors, and other verbal, non-

Examples of coercion include threatening to “out” someone based on sexual orientation, gender identity, or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.

### *(L) Incapacitation:*

Incapacitation is defined as the inability to make rational, reasonable decisions because the individual lacks the capacity to give knowing consent (e.g., to understand the "who," “what,”" when,” “where,” “why,” or “how” of their sexual interaction.) A person may be incapacitated because of their consumption of drugs/alcohol and/or because they are mentally/physically helpless or disabled, asleep, unconscious, or otherwise unaware that the sexual activity is occurring. Where drugs or alcohol are involved, incapacitation is a state beyond impairment or intoxication and involves an assessment of the person’s decision-making ability, awareness of consequences, ability to make informed, rational judgments, capacity to appreciate the nature and quality of the act, and/or level of consciousness. The assessment is based on objectively and reasonably apparent signs of incapacitation when viewed from the perspective of a sober, reasonable person.

### *(M) Consensual Relations In Regard To Sexual Discrimination, Including Sex-Based Harassment*

Any person should be aware of UNE’s policy regarding Consensual Intimate Relationships as they pertain to employees and with respect to employees and students. They should be aware that engaging in prohibited relationships may lead to allegations of sex discrimination, including sex-based harassment, and could result in disciplinary actions even if the relationship itself was not the product of sex discrimination or sex-based harassment. The complete policy is contained in the UNE Personnel Handbook, Section 12.2, https://www.une.edu/pdfs/une-personnel-handbook )

### *(N) ADDITIONAL POLICY DEFINITIONS*

- *Admission* means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by the University of New England.

- *Complainant* means:

    - a Student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination or sex-based harassment as defined in this Grievance Procedure and who was participating or attempting to participate in the University’s Education Program or Activity; or

    - a person other than a Student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination or sex-based harassment under this Grievance Procedure and who was participating or attempting to participate in the

| | | | |
|---|---|---|---|
| Shaylah Kelly | | 207-602-2524 | skelly14@une.edu |

The Title IX Coordinator/ Deputy Title IX Coordinators will:

- Provide oversight of any investigation of claims of discrimination, harassment, or sexual misconduct in violation of this Policy;
- Be available to assist any individual in accessing the resources of the University or the community in the event of any complaint under this Policy;
- Assist anyone who wishes to report a crime to local law enforcement;
- Be responsible for all training and education programs and monitoring the campus climate with regard to discrimination, harassment, and sexual misconduct; and
- Complete required annual reports to government agencies.

*Confidential Resource Advisor (Confidential Reporting)*

The University has a designated Confidential Resource Advisor (CRA). This individual can receive disclosures or a report from an individual and maintain the information in a confidential way. A student can contact the CRA and make a disclosure. The CRA can assist the student in accessing on-campus supportive resources and can do a direct referral to SARSSM for full advocacy support services.

| | | | |
|---|---|---|---|
| Anne Barton | | 207-602-2549 | abarton4@une.edu. |

The University has arranged with Sexual Assault Response Services of Southern Maine (SARSSM) to serve as the Confidential Resource Advisor (CRA) for employees. This organization can receive disclosures or a report from an individual and maintain the information in a confidential way. An employee can contact the CRA and make a disclosure. The CRA can assist the employee in accessing on-campus supportive resources and can do a direct referral to SARSSM for full advocacy support services.

| | | | |
|---|---|---|---|
| SARSSM | | 800-871-7741 | https://www.sarssm.org/ |

receiving the person's verbal or written report. A report may be made at any time (including during non-business hours) by using the telephone number, email, online reporting link (https://www.une.edu/title-ix/reporting), or mailing address listed for the Title IX Coordinator or other persons familiar with this Policy.

### *(A) Disability Accommodations*

This Grievance Procedure does not alter any institutional obligations under applicable federal, state, and/or local disability laws, including the Americans with Disabilities Act of 1990 and Section 504 of the

applies and what form of resolution is reasonably available and appropriate. The initial assessment is not an investigation of responsibility. The initial assessment may also include a determination as to whether a timely warning pursuant to the Clery Act is necessary to protect the safety of the Complainant or any other individuals.

In receiving a report under this Policy, the University will make all reasonable efforts to protect the privacy

- Prohibition from participating in activities or representing the University in any capacity;
- Interim suspension; or
- Any other remedial Supportive Measure that does not unreasonably interfere with either party's access to education or employment opportunities can be used to achieve the goals of this Policy.

The University will also work in good faith to implement the requirements of judicially issued protective orders and similar orders, to the extent that doing so is within its authority.

*Challenges to Supportive Measures*

Within ten (10) days of being notified of any supportive measures implemented, either a Complainant or a Respondent may seek modification or reversal UNE's decision to provide, deny, modify, or terminate supportive measures applicable to them. Employees may seek such modification or reversal by appealing to the Associate Vice-President of Human Affairs/Chief Human Resources Officer. The Associate Vice-President of Human Affairs/Chief Human Resources will have the authority to modify or reverse the initial decision if they determine that the initial decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition and purpose of supportive measures as set forth above.

Parties are only allowed to challenge their own individual Supportive Measures. Challenges by one Party will not be heard to Supportive Measures afforded to the opposite Party, unless that supportive measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

*Process for Review of Supportive Measures*

The Associate Vice-President of Human Affairs/Chief Human Resources Officer of the University will have the authority to modify or reverse the decision they determine that the decision to provide, deny, modify or terminate the supportive measure was inconsistent with definition and purpose of providing Supportive Measures as set forth above. The Associate Vice-President of Human Affairs/Chief Human Resources of the University will make and communicate their decision within seven (7) days of receipt of the challenge to the initial decision on the provision of Supportive Measures.

Grounds for challenge of Supportive Measures include, but are not limited to:

(I) Whether a Supportive Measure is reasonably burdensome;

(J) Whether a Supportive Measure is reasonably available;

(K) Whether a Supportive Measure is being imposed for punitive or disciplinary reasons;

(L)

where applicable, will be referred to the applicable grievance procedures for resolution.

# V. THE TITLE IX GRIEVANCE PROCEDURE FOR ALLEGATIONS OF SEX-BASED HARASSMENT INVOLVING AN EMPLOYEE AS A PARTY AND NOT INVOLVING A STUDENT AS A PARTY

This section describes the grievance procedures that govern the adjudication of a complaint of sex discrimination, including sex-based harassment, involving an employee as a party as long as a student is not also a party.

## *(A) Filing a Complaint*

*Who can make a Complaint?*

The following persons have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that UNE investigate and make a determination about alleged discrimination under this policy:

- A Complainant, which includes:
    - a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX;
    - or a person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX at a time when that individual was participating or attempting to participate in the University's Education Program or Activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- The Title IX Coordinator, after making the determination specified below.

The following persons have a right to make a complaint of sex discrimination other than sex-based harassment requesting that UNE investigate and make a determination about alleged discrimination under this policy:

- Any studentt72[ GÁ N Ò'Mx Tny sn under
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- The severity of the alleged sex discrimination or sex-based harassment, including whether the sex discrimination or sex-based harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sex discrimination or sex-based harassment and prevent its recurrence;

- The age and relationship of the Parties, including whether the Respondent is an employee of UNE;

- The scope of the alleged sex discrimination or sex-based harassment, including information

After a complaint has been received or otherwise initiated and the matter has been determined to fall within the scope of this Policy, the following process will be followed:

*Written Notice of Allegations*

Within ten (10) business days of the determination that the grievance procedures under this section applies and that the matter will not be dismissed, UNE will provide written notice to the parties whose identities are known with sufficient time for the parties to prepare a response before any initial interview.

Each party will have an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible as follows:

(i) UNE will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If UNE provides a description of the evidence, UNE will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;

(ii) A recipient must provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence described in paragraph (f)(4)(i) of this section; and

(iii) A recipient must take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

*Relevant and Impermissible Evidence*

The Investigator will review evidence and determine what evidence is relevant and what evidence is impermissible even if irrelevant.

1. Relevant evidence and questions

   "Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true. Information that does not directly relate to the facts at issue, but instead relates to the reputation, habits, personality, or qualities of an individual is generally not relevant and will not be considered.

2. Impermissible evidence even if relevant under the above definition

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respect to the respondent and are offered to prove consent.

c. Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege. Legally-recognized privileges

The Title IX Coordinator will to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within UNE's education program or

Before initiation of an informal resolution process, UNE will provide to the parties notice that explains:

(i) The allegations;

(ii) The requirements of the informal resolution process;

(iii) That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the UNE's grievance procedures;

(iv) That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;

(v) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and

(vi) What information UNE will maintain and whether and how UNE could disclose such information for use in the applicable grievance procedures, if grievance procedures are initiated or resumed.

The facilitator for the informal resolution process will not be the same person as the investigator or the decisionmaker in the grievance procedures. Any person designated by UNE to facilitate an informal resolution process will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Any person facilitating informal resolution will also have received training required by the current Title IX regulations.

Potential terms that may be included in an informal resolution agreement include but are not limited to:

(i) Restrictions on contact; and
(ii) Restrictions on the respondent's participation in one or more of UNE's programs or activities or attendance at specific events, including restrictions UNE could have imposed as remedies or disciplinary sanctions had UNE determined at the conclusion of UNE's grievance procedures that sex discrimination occurred.

## VII. RESOURCES FOR REPORTING AND RESPONDING PARTIES

In the event that an employee experiences sexual misconduct in any form, they should treat it seriously and tell someone. There are long-term effects, even if the immediate effects may not appear obvious. Help is important. Which service one starts with is not important. Each service is designed to address the specific concerns of a situation. These resources are not isolated but cooperate to provide a web of support for the

The Title IX Coordinator for the University of New England is:

| Angela Shambarger | | | |
|---|---|---|---|
| ashambarger@une.edu | 207-221-4554 | Mailing Address:<br>11 Hills Beach Road<br>Biddeford, ME 04005 | Office Locations:<br>HR Building<br>McDougall Hall 102 |

Deputy Title IX Coordinators:

| | | | |
|---|---|---|---|
| Hahna Patterson | | 207-602-2372 | hpatterson@une.edu |
| Ray Handy | | 207-221-4213 | rhandy@une.edu |
| Shane Long | | 207-602-2372 | slong11@une.edu |
| Heather Davis | | 207-602-2629 | hdavis@une.edu |
| Janna Merritt | | 207-602-2281 | jmerritt2@une.edu |
| Shaylah Kelly | | 207-602-2524 | skelly14@une.edu |

*University Safety and Security:*

In case of **emergency**, University Safety and Security for both the Portland and Biddeford campuses may be reached by **dialing 366** from any campus phone and by dialing (207) 283-0176 from any non-campus phone. In all emergencies, 911 can be dialed from any on-campus phone to reach local law enforcement or

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| Phone: (207) 602-2298 | Phone: (207) 602-2298 |
| Online: https://www.une.edu/studentlife/security | |

In non-emergency situations, University Safety and Security may be reached at 207-602-2298.

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Individuals who seek medical care following an assault may request support from a trained advocate at any point. SARSSM Advocates are available 24-hours a day to go with you to any emergency room in York or Cumberland County. Advocates are trained to offer information and support. You can call the free, confidential, 24-hour helpline at 1-800-871-7741 to ask for an advocate to meet you or ask the hospital to call for you. There is no cost associated with requesting an advocate.

| Portland: Maine Medical Center | Biddeford: Southern Maine Health Care |
|---|---|
| 22 Bramhall Street<br>Portland, ME 04102<br>Phone: 207-662-0111<br>Website:<br>https://www.mainehealth.org/maine-medical-center | 1 Medical Center Drive<br>Biddeford, ME 04005<br>Phone: 207-294-5000<br>Website:<br>https://www.mainehealth.org/southern-maine-health-care |

*Maine State Crisis Number (Confidential Resource)*

The Maine Crisis Line is the state's crisis telephone response service for individuals or families experiencing a behavioral health crisis or having thoughts of suicide and/or self-harm. Trained crisis call specialists answer the line and provide free and confidential telephone support and stabilization 24 hours a day, 7 days a week.

| Maine State Crisis Line |
|---|
| Call/Text: 1-888-568-1112<br>Chat: https://heretohelpmaine.com/resources/ |

*National Crisis Text Line (Confidential Resource)*

Crisis Text Line serves anyone, in any type of crisis, providing access to free, 24/7 support via Text, Chat, or WhatsApp.

| Crisis Text Line |
|---|
| Text: Text "TALK" to 74174 |

| National Suicide Prevention Lifeline |
| --- |
| Call/Text: 988<br>Chat: 988lifeline.org |

*(D) Sexual Misconduct/Relationship Violence/Stalking Specific Off-*

## *Planned Parenthood Of Maine (Confidential Resource)*

Confidential services and can provide information about emergency contraception and information about sexually transmitted diseases.

| Biddeford Location | Portland Location |
|---|---|
| 275 Main St, Suite 102,<br>Biddeford, ME 04005<br>Phone: 207-282-6620 | 443 Congress Street,<br>Portland, ME 04101,<br>Phone: 1-800-230-7526, or 207-221-4242 |
| Website: https://www.plannedparenthood.org/planned-parenthood-northern-new-england | |

## *Rape, Abuse, And Incest National Network (Rainn) (Confidential Resource)*

RAINN (Rape, Abuse & Incest National Network) is the nation's largest anti-sexual violence organization. RAINN created and operates the National Sexual Assault Hotline. RAINN also carries out programs to prevent sexual violence, help survivors, and ensure that perpetrators are brought to justice. The National Sexual Assault Hotline

| RAINN |
|---|
| Call: 800-656-4673<br>Chat: online.rainn.org<br>Website: https://www.rainn.org/ |

## *National Sexual Violence Resource Center (Nsvrc) (Confidential Resource)*

NSVRC maintains a directory of organizations that lists state and territory sexual assault coalitions, victim/survivor support organizations, and local communities of color sexual assault organizations. You can contact your state or territory's coalition to find local resources that provide services to survivors.

| National Sexual Violence Resource Center: |
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| Website: https://www.nsvrc.org/ |

## *STALKING PREVENTION, AWARENESS, RESOURCE CENTER (SPARC)*

SPARC is a federally funded project providing education and resources about the crime of stalking. SPARC aims to enhance the response to stalking by educating the professionals tasked with keeping stalking victims safe and holding offenders accountable. SPARC ensures that allied professionals have the specialized knowledge to identify and respond to the crime of stalking.

| Stalking Prevention, Awareness, Resource Center: |
|---|
| Website: https://www.stalkingawareness.org/ |

## *(E) Transportation Resources*

The University offers a variety of options for students to access transportation if they do not have their own vehicle. These can be used for emergency room visits or access to appointments, agency visits, police departments, etc.

*Emergency Room Transportation:*

Ambulance Service, 911: In case of an Emergency, individual students, UNE Security Officers, Student Health Care Staff, and members of the public can contact an ambulance service.

On the Biddeford Campus, students can use the UNE Lyft program (see below) or can contact UNE Security Dispatch (207-602-2298) to coordinate a ride back to campus if necessary.

*Transportation to the General Biddeford/Saco/Old Orchard Beach and Portland Areas:*

1. Silver and Local Connections:

Offering a regular schedule seven days a week, BSOOB Transit's Silver Line transports UNE faculty, professional staff, and students to and from the Biddeford Campus and the Saco Transportation Center. From there, you can switch to several local buses to provide more flexibility for your commute. You just need to present a UNE ID card. Visit the BSOOB Transit website, https://bsoobtransit.org/, for routes, schedules, and the new bus locator tool.

2. Greater Portland Metro and South Portland Buses

UNE students, faculty, and professional staff can ride the Greater Portland Metro, https://gpmetro.org/, and South Portland buses, https://southportland.org/departments/bus-transportation/bus-schedule/, for free with University ID cards. Greater Portland Metro services Westbrook, Falmouth, the Portland peninsula, and as far north as Freeport and Brunswick. South Portland buses service the Southern Maine Community College and Willard Beach areas, the Maine Mall area, and in between, and they connect with GP Metro on the Portland peninsula.

*Lyft Ride Share*

In addition to offering free Lyft credits as an incentive for first-year students to leave their cars at home, UNE encourages students to use Lyft for trips that dond2 (her)7 (n (s)4 (i)6.1t.58 0 at)128 0 atfio cr aia.

The Biddeford Campus has two designated Lyft pickup and drop-off locations, at the Campus Center and Alfond Forum bus shelters. The app is free and can be used to hail a ride, connect with your driver, and pay for the ride. For more information about transportation options, go to:
https://www.une.edu/studentlife/security/transportation

### *(F) Maine Crime Victims' Compensation Program*

In some instances, an individual victim may incur expenses related to their assault. A Victim's Advocate from a Sexual Assault support center can assist with accessing free services or reimbursement for some medical-related expenses. Additionally, the State of Maine offers a Victims' Compensation Program. For more information on this, please contact:

Victims' Compensation Program
Maine Office of the Attorney General
6 State House Station
Augusta, Maine 04333-0006
Tel: (207) 624-7882, or (800) 903-7882
https://www.maine.gov/ag/crime/victims_compensation/index.shtml

If a student has financial concerns related to their assault, there may be resources and support available through UNE as well. They should contact the Title IX Coordinator for more information.