Employee Sexual Assault, Domestic Violence, Dating Violence and Stalking Policy

Policy Statement
Brandeis University is committed to providing its employees with an environment conducive to learning and working, and where all people are treated with respect and dignity. Toward that end, and consistent with the federal Violence Against Women Act of 1994, as amended, Brandeis strictly prohibits sexual assault, domestic violence, dating violence and stalking by any employee against any other employee or student. Violations of this policy will not be tolerated and may result in corrective actions up to and including termination from employment.

Certain conduct described below may also violate the University's Sexual Harassment Policy and/or Non-Discrimination and Harassment Policy. Any allegation filed under this policy will be reviewed under those policies as well.

Applicability
This policy applies to all Brandeis employees.

Guidelines:
Understanding Prohibited Conduct
Sexual Assault is defined as any intentional sexual touching, however slight, with any body part or object by a person upon another person, without consent or upon a person unable to consent.
Examples of Non-Consensual Sexual Contact/Activity include (but are not limited to): touching or penetration of an unwilling person's intimate parts (such as genitalia, groin, breast, buttocks, mouth, and/or clothing covering them); touching an unwilling person with one's own intimate parts; making an unwilling person touch you or another; or any intentional bodily contact in a sexual manner, even if it does not involve breasts, buttocks, groin, genitals, mouth, or other orifice.
Sexual contact/activity with a person who is incapacitated (by use of drugs, alcohol, or any other means) or otherwise unable to consent (i.e. asleep, mentally impaired, etc.) is always considered non-consensual.
Domestic violence is defined as the occurrence of one or more of the following acts between family or members of a household (which can include roommates in a residence hall):

i. attempting to cause or causing physical harm;
ii. placing another in fear of imminent serious physical harm;
iii. causing another to engage involuntarily in sexual relations by force, threat or duress.

"Family or household members" includes persons who:

- are or were married to one another;
- are or were residing together in the same household (which can include roommates in a residence hall);
- are or were related by blood or marriage;
- have a child in common regardless of whether they have ever married or lived together; or
- are or have been in a substantive dating or engagement relationship, which is determined by considering the following factors:

1. the length of time of the relationship;
2. the type of relationship;
3. the frequency of interaction between the parties; and
4. if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.
Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

Stalking is defined as: "Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury." The threatening conduct may be written or verbal and includes mail, phone calls, email and other internet communications, text messages, and other instant messages.

When a complaint is filed, the University will determine whether this policy has been violated based on consideration of the facts and circumstances surrounding the alleged conduct. The University may take action on conduct that it deems to be inappropriate, regardless of whether it rises to the level of a violation of law.

**Management and Faculty Responsibility**

It is the responsibility of faculty, managers, and supervisors to be aware of actions that constitute sexual assault, domestic violence, dating violence and stalking and to demonstrate unwillingness to tolerate such actions, including taking appropriate action to maintain an environment free from sexual assault, domestic violence, dating violence and stalking. Managers and supervisors who witness or are made aware of allegations of harassment or discrimination are required to promptly report such allegations to the University's Vice President for Human Resources or the Director of Employee Relations, Labor Relations and Compliance.

**Employee Responsibility to Report**

All employees who witness or are made aware of allegations of sexual assault, domestic violence, dating- violence or stalking are required to promptly report such allegations to the University's Title IX Coordinator. Employees of the University who fail to promptly report such allegations may be subject to disciplinary action. Employees whose positions legally require confidentiality (i.e., clergy and counseling staff) or are designated by the University as confidential employees are exempt from reporting.

**Reporting Concerns:**

Complaints of violations of this policy should be made to:

Brandeis Interim Title IX Coordinator
Anthony Sciaraffa
781-736-4456
asciaraffa@brandeis.edu

**Problem Resolution**

In the case of sexual assault, domestic violence, dating violence and stalking, the Office of Human Resources is available to assist in this process. If the individual(s) involved wish to file a complaint or if, in the judgment of the Title IX Coordinator, the matter requires further fact-finding or review, claims will be investigated and resolved by the Office of Human Resources. The investigation and resolution process is outlined in the Non-Discrimination and Harassment Problem Resolution and Appeal Procedure for Claims of Harassment/discrimination against Staff or Faculty.

**Formal Investigation and Resolution**

Complaints filed under this policy will be adjudicated pursuant to the University's Non-Discrimination and Harassment Problem Resolution and Appeal Procedure for Claims of Harassment/discrimination against Staff or Faculty.

In addition to the procedures outlined in the Non-Discrimination and Harassment Problem Resolution and Appeal Procedure for Claims of Harassment/Discrimination against Staff or Faculty, the investigation will:

Include a prompt, fair, and impartial process from the initial investigation to the final outcome;

i. Be conducted by an official who, at a minimum, receives annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
ii. Provide the accuser and the accused with the same opportunities to have others present during the proceeding, including the opportunity to be accompanied to any related meeting or proceeding, by an advisor of their choice;

iii. Provide simultaneous notification, in writing, to both the accuser and the accused, of:

   A. The outcome of the proceeding;
   B. The procedures for the accused and the accuser to appeal the result of the proceeding;
   C. Any change to the outcome as a result of an appeal; and
   D. When the outcome becomes final.

**Role of the Advisor**

The accuser and the accused may each select an advisor of their choice. An advisor may provide emotional support and assistance in navigating the process; however, the role of the advisor is passive and an advisor may not speak or write to the investigator on behalf of a party. The failure of a party to select an advisor will not delay the process.

**Prohibition on Retaliation**

No employee may retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of this policy.

*This policy is for general guidance only. It does not create an employment contract or any right to continued employment at Brandeis University. Brandeis University reserves the right to modify, revoke, suspend, terminate and/or change any and all policies and procedures at any time, with or without notice.*

*Office of Human Resources*

*01/2018*