



## **POLICY AGAINST DISCRIMINATION, HARASSMENT, & SEXUAL VIOLENCE**

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### **I. Policy Statement**

Brandeis University is committed to and strives to create an educational and work environment free of Discrimination, Harassment & Sexual Violence. Brandeis prohibits discrimination and harassment against students, staff, and faculty on the basis of race; color; national origin; ethnicity; shared ancestry or ethnic characteristics; caste; sex, including pregnancy or related conditions, sexual orientation, gender identity/expression, including transgender identity; religion; disability; age; genetics; active military or veteran status; and any other characteristics protected under applicable federal or state law, known as “*Protected Categories*.” Brandeis also prohibits sexual violence against students, staff, and faculty which includes sexual assault, stalking, dating violence, and domestic violence. Some of the state and federal laws applicable to issues of discrimination, harassment, and sexual violence include Title VII of the 1964 Civil Rights Act, and its state counterpart, M.G.L. c. 151B; Title VI of the 1964 Civil Rights Act; Title IX of the 1972 Education Amendments; the Violence Against Women Act (VAWA); the Americans with Disability Act (ADA), as amended by

the ADA Amendments Acts (ADAAA); Section 503 and 504 of the Rehabilitation Act; the Age Discrimination in Employment Act (ADEA); and the Massachusetts Campus Sexual Violence Act, M.G.L. c. 6, Sections 168 D & E. Brandeis University affirms its commitment to equal opportunity and does not discriminate in its educational programs or activities, or in employment based on any of the *Protected Categories*.

Questions or concerns about this Policy should be directed to the Office of Equal Opportunity (OEO) (o eo@brandeis.edu; 781-736-4806). OEO can be found on the lower level of the Bernstein-Marcus Administration Center. The Director of OEO serves as the University's Title IX Coordinator and as the ADA/Section 504 Coordinator (781.736.4806; [OEO@brandeis.edu](mailto:OEO@brandeis.edu)). The Title IX Coordinator is the university official authorized to coordinate and manage all aspects of the university's compliance with Title IX, including, but not limited to, the creation of Title IX policies and the adoption of grievance procedures providing for the prompt and equitable resolution of complaints of policy violations; the response to reports of alleged violations of the university's Title IX policies; the notification, investigation, and disposition of complaints; the oversight of university employees and third-party vendors engaged by the university to facilitate the notification, investigation and disposition of complaints; the development and delivery of training and education related to the university's Title IX policies; and the assessment of the university's effectiveness in responding to and remedying the effects of conduct that violates the university's Title IX policies.

Violations of this Policy are subject to action through the processes outlined in the Formal Complaint Process and the Title IX Grievance Process (as applicable). Those processes can be found on the OEO website. Depending on the nature of the violation, disciplinary sanctions for violations of this Policy may include denial of privileges, no-contact orders, disciplinary warnings, disciplinary probation, suspensions and dismissal for students, and may include warnings (verbal or written), censures, final warnings, reassignment, demotions, suspensions, and termination for employees.<sup>1</sup> Training and other educational responses may also be issued in response to a finding of responsibility.

Allegations against any student or employee (staff or faculty) that, if true, could violate this Policy will be addressed pursuant to the Formal Complaint Process and/or Title IX Grievance Process (as applicable). Employees subject to a collective bargaining agreement and/or the Faculty Handbook may have additional rights in terms of the sanctioning after a finding has been made pursuant to one of these processes.

Retaliation, as defined in this Policy, is strictly prohibited. A person engaging in retaliatory conduct will be subject to disciplinary action by the University. See the section regarding retaliation below for more information.

This Policy is effective August 1, 2024, and applies to conduct occurring on or after that date. A prior version of this Policy is applicable to conduct from August 2021 through July 31, 2024. For conduct that may violate this Policy but that occurred prior to August 2021, please see the version of this Policy that was in effect at the time the conduct is alleged to have occurred. Brandeis reserves the right to make changes to this Policy as necessary. This Policy is maintained, reviewed, and revised by OEO. The most up-to-date version of this Policy that is currently in effect at the

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<sup>1</sup> For a complete list of student sanctions, see [Rights and Responsibilities](#), Section 20.

University can be found on the [OEO website](#).<sup>2</sup> If government regulations change in a way that impacts this Policy, this Policy will be construed to comply with government regulations in their most updated and applicable form, based on the effective date of the regulations in question.

## **II. Scope of Policy/ Jurisdiction**

This Policy applies to all students,<sup>3</sup> employees (staff and faculty).<sup>4</sup> It also applies to any other individuals while they are participating or attempting to participate in the University's programs or activities or are otherwise on campus.<sup>5</sup> The University's Formal Complaint Process (and when applicable, the Title IX Grievance Process) are available to students, employees, and any other individuals who allege they experienced prohibited conduct while they were a student, employee, or otherwise participating in or attempting to participate in the University's programs or activities *and* Brandeis has disciplinary authority over the person alleged to have committed the prohibited conduct.

If Brandeis lacks disciplinary authority over an individual alleged to have violated this Policy, the Formal Complaint Process (and/or Title IX Grievance Process) is not available. However, Brandeis can still provide information about available supportive measures and resources both on and off campus to the member(s) of the University community who experience this type of conduct. The University can also provide information regarding any off-campus options that may be available to address the conduct, including referring the matter to law enforcement or another institution. When appropriate, Brandeis has the discretion to restrict a non-Brandeis community member or a former Brandeis community member's access to campus or other Brandeis property.

There may also be occasions where a Brandeis student, employee, or other individual over whom Brandeis has disciplinary authority is alleged to have violated this Policy with respect to someone who was not a Brandeis student, employee, or otherwise participating or attempting to participate in a Brandeis program or activity at the time of the alleged violation. Under these circumstances, Brandeis maintains the option to initiate a Formal Administrative Complaint. In determining whether to do so, Brandeis will consider many factors, including any impact the conduct may have on the University community and the information that may be available regarding the alleged conduct. The University reserves the right to gather and review information related to the allegations, as appropriate, before deciding whether to exercise discretionary jurisdiction over the matter.

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<sup>2</sup> Please contact the Office of Equal Opportunity at 781.736.4806; [OEO@brandeis.edu](mailto:OEO@brandeis.edu) if you need assistance locating a prior version of this Policy.

<sup>3</sup> The term "student" means a person who has gained admission to Brandeis.

<sup>4</sup> "Employees" refers to anyone employed by Brandeis in any capacity including faculty and staff.

<sup>5</sup> For purposes of this Policy, conduct occurring "on campus" includes conduct that occurs in a building owned or controlled by a student organization that is officially recognized by Brandeis.

### III. Academic Freedom

Brandeis University adheres to the principles and traditions of academic freedom,<sup>6</sup> and recognizes that these freedoms must be in balance with the rights of others, including the right of individuals not to be subjected to discrimination or harassment. It is understood that the principles of academic freedom permit topics of all types to be part of courses, lectures, and other academic pursuits. Materials that are used or displayed in an educational setting should be related to educational purposes. When an alleged violation of this Policy overlaps with concepts of academic freedom, a determination regarding whether the alleged conduct is protected by academic freedom will be decided pursuant to the [Formal Resolution Process](#) (Non-Title IX), which will include the appropriate academic dean or the Provost, or pursuant to the [Title IX Grievance Process](#) (as applicable), which will include at least one trained faculty member on the panel, as available.

### IV. Prohibited Conduct

#### A. **Discrimination Based on a Protected Category**

Discrimination Based on a Protected Category (“discrimination”) occurs when someone (or a group) is treated unfairly, less favorably and/or deprived access, benefits, or opportunities in education or employment based on membership in one (or more) of the *Protected Categories*. *Protected Categories* include race; color; national origin; ethnicity; shared ancestry or ethnic characteristics; caste; sex, including pregnancy or related conditions, sexual orientation, gender identity/expression, including transgender identity; religion; disability; age; genetics; active military or veteran status; and any other characteristics protected under applicable federal or state law. Some examples of discrimination include:

- Not providing the same classroom materials to a student based on their religion;
- Excluding an employee from meetings based on their race;
- Not allowing a student to go on a class field trip because they are pregnant;
- Not offering a job to a person based on their age;
- Not recommending a person for promotion based on their gender identity;
- Giving a student a lower grade because they receive a disability-related accommodation through Student Accessibility Support.

#### B. **Harassment Based on a Protected Category Other than Sex<sup>7</sup>**

Harassment Based on a Protected Category other than Sex occurs when there is unwelcome or unwanted verbal or physical conduct, based on a *Protected Category* other than sex that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from Brandeis’ education

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<sup>6</sup> For more on academic freedom, please see Section III(C)(1)(a) of the Faculty Handbook, available [here](#).

<sup>7</sup> Harassment based on sex is discussed in Section [IV, C](#), Sex-Based Harassment.

program, activity, or work environment (i.e., creates a hostile environment) (Hostile Environment Harassment).<sup>8</sup>

Hostile Environment Harassment can be verbal, non-verbal, visual and/or physical conduct. It can include jokes, slurs, epithets, name-calling, threats, intimidation, ridicule, mockery, insults, put-downs, unwanted touching, offensive objects or pictures, or other conduct that is subjectively and objectively offensive and so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Brandeis' education program, activity, or work environment (i.e., creates a hostile environment). Conduct is subjectively offensive to someone when they personally experience it as offensive.<sup>9</sup> Conduct is objectively offensive if a reasonable person in similar circumstances and with similar identities would find the conduct offensive. Whether conduct rises to the level of Hostile Environment Harassment is a fact-specific inquiry that includes, among other things, consideration of the following:

- The degree to which the conduct affected a person's ability to access the University's education program, activity, or work environment;
- The type, frequency, and duration of the conduct;
- The ages, roles within the University's education program or activity, previous interactions of the people involved, and other factors about the people involved that may be relevant to evaluating the effects of the conduct; and
- The location of the conduct and the context in which the conduct occurred.

Generally, the less pervasive the harassing conduct, the more severe it must be to establish a hostile environment. For example, in some cases, a single isolated incident may not be sufficient to establish a Policy violation. However, in other cases, a hostile environment based on a *protected category* may result from a single severe incident if the conduct is subjectively and objectively offensive and so severe that it limits or denies a person access to the education or work environment. Hostile Environment Harassment can occur between or among students, staff, faculty, and/or third parties and can occur between people of unequal power or between peers.

Some examples of conduct that could constitute harassment include:

- Making jokes about the fact that a person is an immigrant, making fun of their accent and gossiping about the food they bring in for lunch, mocking the country that person is from, giving this person extra work during a holiday saying "You probably don't celebrate this anyway."

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<sup>8</sup> For some, it is easier to visually this in bullet points. Hostile Environment Harassment is:

- Unwelcome or unwanted verbal or physical conduct based on a *Protected Category* other than sex, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from Brandeis' education program, activity, or work environment.

<sup>9</sup> The same conduct could be subjectively offensive to one person but not to another. Typically, if something is subjectively offensive to a person, it is also unwelcome.

- Making jokes about the fact that a co-worker is older, asking if they remember “when the dinosaurs were around” and announcing to everyone when they have difficulty with technology, commenting “Why is this so hard for you people,” making age-related jokes when this employee has a birthday, excluding this person from a work outing because “you probably don’t like to hang out with younger people.”
- Complaining that a class location has to be moved to accommodate someone with a disability, making fun of a person because of how they move, complaining about accommodations a person is receiving saying they are getting an advantage over others, excluding a person from a meeting because it will “take too long for them to get here.”
- Blaming a person for the acts of others because of the person’s shared ancestry or ethnic characteristics, calling that person a racial or religious slur, stating that people of the person’s national origin all share a negative characteristic (negative stereotyping).

Harassment Based on a Protected Category Other than Sex can also take the form of Quid Pro Quo Harassment. Quid Pro Quo Harassment occurs when a University employee, agent, or other person authorized by Brandeis to provide an aid, benefit, or service under the University’s education program, activity, or work environment makes submission to, or rejection of, conduct based on a *Protected Category* an explicit or implicit term or condition of one’s education or employment or uses that as the basis for education or employment decisions. Some examples of Quid Pro Quo Harassment Based on a Protected Category could include:

- Offering an employee a promotion if they convert to another religion;
- Requiring a student to forgo an approved disability accommodation in order to get an A on a test.

### **C. Sex-Based Harassment**

Sex-Based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity/expression, including transgender identity, when that harassment constitutes Sex-Based Hostile Environment Harassment, Quid Pro Quo Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Exploitation.

Please note that Brandeis University also has a policy regarding Consensual Romantic or Sexual Relationships between Faculty, Staff, and Students. This policy is administered by the [Office of Human Resources](#) and prohibits all employees from any romantic or sexual relationships with undergraduate students. Romantic or sexual relationships with graduate students or other employees are prohibited when there is an exercise of authority over that individual. For more information, please see the policy on [Consensual Romantic or Sexual Relationships between Faculty, Staff, and Students](#).

## 1. Sex-Based Hostile Environment Harassment

Sex-Based Hostile Environment Harassment is Hostile Environment Harassment when that harassment is based on sex. Sex-Based Hostile Environment Harassment occurs when there is unwelcome or unwanted verbal or physical conduct, based on a sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity /expression, including transgender identity, that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program, activity, or work environment (i.e., creates a hostile environment).

As noted above with respect to Harassment Based on a Protected Category Other than Sex, Sex-Based Hostile Environment Harassment can be verbal, non-verbal, visual and/or physical conduct. It can include jokes, slurs, epithets, name-calling, threats, intimidation, ridicule, mockery, insults, put-downs, unwanted touching, offensive objects or pictures, or other conduct that is subjectively and objectively offensive and so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Brandeis' education program, activity, or work environment (i.e., creates a hostile environment). Conduct is subjectively offensive to someone when they personally experience it as offensive.<sup>10</sup> Conduct is objectively offensive if a reasonable person in similar circumstances and with similar identities would find the conduct offensive. Whether conduct rises to the level of Hostile Environment Harassment is a fact-specific inquiry that includes, among other things, consideration of the following:

- The degree to which the conduct affected a person's ability to access the University's education program, activity, or work environment;
- The type, frequency, and duration of the conduct;
- The ages, roles within the University's education program or activity, and previous interactions of the people involved, and other factors about the people involved that may be relevant to evaluating the effects of the conduct; and
- The location of the conduct and the context in which the conduct occurred.

Generally, the less pervasive the harassing conduct, the more severe it must be to establish a hostile environment. For example, in some cases, a single isolated incident may not be sufficient to establish a Policy violation. However, in other cases, a hostile environment based on a *protected category* may result from a single severe incident if the conduct is subjectively and objectively offensive and so severe that it limits or denies a person access to the education or work environment. Sex-Based Hostile Environment Harassment can occur between or among students, staff, faculty and/or third parties and can occur between people of unequal power or between peers.

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<sup>10</sup> The same conduct could be subjectively offensive to one person but not to another. Typically, if something is subjectively offensive to a person, it is also unwelcome.

Some examples of conduct that could constitute harassment include:

- A pattern of sending sexually explicit text messages or images to a person, repeatedly asking them out (even after they have said no), watching sexually explicit materials in front of a person, joking about sexual behavior around a person, questioning a person's sexual orientation because they refuse to go on a date, standing close to a person whenever they are around.
- Intentionally misgendering a person by using pronouns that are different from those the person uses; repeatedly calling that person by their birth-assigned name, rather than the name they have chosen, joking about that person's gender identity.

## **2. Title IX Quid Pro Quo Sexual Harassment**

Title IX Quid Pro Quo Sexual Harassment occurs when a University employee, agent, or other person authorized by Brandeis to provide an aid, benefit, or service under the University's education program or activity makes submission to, or rejection of, unwelcome sexual conduct an explicit or implicit term or condition of one's education or employment or uses that as the basis for education or employment decisions. In other words, this occurs when an employee, agent, or other person authorized by Brandeis conditions the provision of an aid, benefit, or service of Brandeis on an individual's participation in unwelcome sexual conduct.

## **3. Sexual Violence**

### **a) Sexual Assault**

Sexual Assault is any sexual act directed against an individual through the use of force, without consent and/or in instances where the Complainant (or Complaining Witness in an Administrative Complaint)<sup>11</sup> is incapable of giving consent. This definition includes but is not limited to the following conduct:

- 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, through the use of force, without consent and/or where a person is incapable of giving consent.
- Touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, through the use of force, without consent and/or where a person is incapable of giving consent.
- Sexual intercourse between persons who are related to each other to a degree where marriage would be prohibited by Massachusetts law.
- Any other conduct classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

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<sup>11</sup> The Complainant or Complaining witness in this context refers to the individual who allegedly experienced the prohibited conduct.



**b) Dating Violence**

Dating Violence is violence committed by a person who is, or has been, in a romantic or intimate relationship with the Complainant (or Complaining Witness). Dating Violence can include verbal, physical, emotional, or psychological abuse. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

**c) Domestic Violence**

Domestic Violence is violence committed by a person who has one of the following relationships with the Complainant (or Complaining Witness):

- Current or former spouse or intimate partner of the Complainant (or Complaining Witness) under the family or domestic violence laws of Massachusetts.
- Person with whom the Complainant (or Complaining Witness) shares a child in common.
- Person who is cohabitating with, or has cohabitated with, the Complainant (or Complaining Witness) as a spouse or intimate partner (not just a roommate).
- Person similarly situated to a spouse of the Complainant (or Complaining Witness).

Domestic Violence can include verbal, physical, emotional, or psychological abuse.

**d) Stalking**

Stalking is a course of conduct, on the basis of sex, 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.<sup>12</sup>

- A course of conduct means two or more acts, including, but not limited to, acts in which an individual directly, indirectly, or through third parties, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property, by any method, device, or means.
- Reasonable person is defined as a reasonable person under similar circumstances and with similar identities.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.

**4. Sexual Exploitation**

Sexual exploitation occurs when a person(s) takes non-consensual or abusive sexual advantage of another, for any purpose. Sexual exploitation can take many forms, including those noted below, but is not limited to just the behaviors listed here. Other forms of sexual exploitation can occur

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<sup>12</sup> The duration, frequency, and intensity of the conduct are factors in determining whether a course of conduct would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress.

beyond the categories listed here, as determined by the Director of the Office of Equal Opportunity (or their designee) on a case-by-case basis.

***a. Non-Consensual Photographing/Recording Sexual Activity/Nudity and Sharing Photographs/Recordings of Sexual Activity/Nudity***

Sexual Exploitation occurs when someone photographs or otherwise records someone (via audio, video, or any other medium) involved in sexual activity, or in any state of undress, without their consent. Even if a person consented to the sexual activity or being in a state of undress, photographing or recording someone without consent goes beyond the boundary of that original consent (see the definition of Consent below for more information).

The act of sharing or disseminating photographs or recordings of someone involved in sexual activity or in a state of undress, without their consent, also constitutes sexual exploitation. This includes sharing or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes). Even if the images were taken or created with consent, it is a violation of this Policy to share those photographs or recordings without first obtaining the consent of all person(s) involved. Anyone in possession of the photographs or recordings and who is sharing those images without consent is responsible for sexual exploitation, regardless of whether that individual was the person who originally took or created the photographs or recordings. It is a violation of the Policy to share those photographs or recordings by digitally forwarding them, posting copies of the images or otherwise sharing them, or by simply showing someone else those images without relinquishing possession.

***b. Voyeurism***

Voyeurism is the act of intentionally observing, spying on, or listening to a person(s) involved in sexual activity or in any state of undress, without their consent. Voyeurism also occurs when an individual allows others to observe sexual activity or someone in any state of undress without the consent of all the person(s) involved.

***c. Indecent Exposure***

Indecent exposure is intentionally exposing one's intimate body parts, such as genitalia, groin, breasts and/or buttocks to someone without their consent. This behavior is the showing of intimate parts of the body and may, but does not necessarily have to, include a sexual act. Engaging in sexual activity in public or in front of a non-consenting person(s), is also a form of indecent exposure.

**D. Retaliation**

University policy prohibits retaliation for asserting one's rights to a work or educational setting free of discrimination and harassment on the bases specified by this policy. Retaliation is an adverse

(negative) action taken against an individual for engaging in one of the following Protected Activities:

- in good faith, opposing discrimination or harassment based on a *protected category*, including reporting concerns about discrimination, harassment, sexual violence, or sexual exploitation;
- participating in or refusing to participate in an investigation, proceeding, or hearing under the Formal Complaint Process or Title IX Grievance Process;<sup>13</sup>
- pursuing a grievance in good faith under the Accommodation Grievance Process; or
- for the purpose of interfering with any right or privileges secured by this policy or the ADA/Section 504 Policy, or any applicable antidiscrimination law conferring protections against retaliation.

An adverse action is an action that would deter a reasonable person under similar circumstances from engaging in the Protected Activity. Adverse actions can include, but are not limited to aggression, intimidation, threats or verbal abuse, coercion, exclusion, different treatment, harassment, or bullying, when such conduct would deter a reasonable person from engaging in the Protected Activity.

Some examples of conduct that could constitute retaliation include:

- Lowering a student's grade because they requested an academic accommodation through Student Accessibility Support;
- Assigning an employee less desirable work or work shifts because they reported concerns about sexist comments to a supervisor;
- Delaying a student's academic progress or interfering with their job prospects because they participated as a witness or complainant in a discrimination or harassment investigation with OEO;
- Intentionally publicly humiliating a student because they refused to participate in an OEO investigation or hearing.

Retaliation by others (e.g., friends, family members, attorneys, etc.) for the benefit of a party or witness is also prohibited and could subject the party (if they encouraged the conduct)<sup>14</sup> and the person(s) engaging in the conduct to disciplinary action. The act of hiring a lawyer or exercising one's legal rights is not considered retaliation. Retaliation is a separate violation of this policy that can be addressed independently of and/or in addition to other alleged violations.

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<sup>13</sup> This does not preclude Brandeis from requiring an employee to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

<sup>14</sup> Encouraging retaliation includes aiding, abetting, inciting, or compelling, or attempting to aid, abet, incite, or compel retaliatory conduct.

## V. Important Definitions

### A. Consent

Consent is an affirmative, voluntary, knowing, and continuous agreement to engage in a specific form of sexual activity. Consent must be obtained *before* engaging in any sexual activity. Consent may be communicated verbally, non-verbally, or physically so long as those words or actions create clear, mutually understandable permission regarding the conditions of sexual activity. Consent is an active and affirmative process. It is the responsibility of the person who wants to engage in sexual activity and/or who may be initiating that sexual activity, to make sure that they have received consent from any other person(s) involved. If an individual is not sure if they have received consent, they have an obligation to seek additional clarification. Consent must be received for each individual sexual act that a person wishes to engage in with another person(s). Consent may not be inferred from silence or lack of resistance to sexual advances, or from prior consensual sexual contact. Relationship status is immaterial to the issue of consent. Consent may be withdrawn at any time, and consent to one sexual activity does not imply consent to any subsequent sexual activity.

#### 1. What is Consent?

Consent occurs when individuals willingly, unambiguously, and knowingly agree to engage in sexual activity and their agreement is communicated in a clear and affirmative manner that is understood by all of the parties involved. Relying solely on non-verbal communication, which can sometimes be unclear, can lead to misunderstandings. Any lack of clarity regarding consent should be resolved through verbal communication. Individuals should be able to clearly articulate why and how they knew they had received consent and what they considered to be indications of consent *before* they engaged in sexual activity. Consent is often given with certain explicit or implied boundaries, such as agreeing to have sexual intercourse but only with the use of a condom. Violating the boundaries of consent by engaging in behavior beyond that which was agreed upon is non-consensual conduct.

It is important to remember:

- Consent to one sexual act does not constitute or imply consent to another act
- Prior consent cannot imply consent to future sexual acts
- Consent cannot be assumed based on relationship status or a sexual history together
- Consent can be withdrawn at any time before or during sexual activity by either party

#### 2. What is Not Consent?

Consent may not be inferred from silence, passivity, or a lack of objection. Individuals who do not physically oppose or verbally refuse sex or sexual activity are not necessarily giving consent. Silence or a failure to resist does not equal consent, as consent is an active and affirmative process. It is the responsibility of the person wanting to engage in or initiating sexual activity to make sure that they have received consent at each stage of sexual activity from all person(s) engaged in the sexual activity. If a person is not sure if they have consent, they have an obligation to seek clarity, preferably verbally. The use of alcohol or other substances does not relieve an individual from their obligation to obtain consent before initiating and/or engaging in sexual activity (see Consent and the Use of Alcohol or Drugs below for more information).

Some behaviors and comments that do *not* indicate affirmative consent include (but are not limited to):

- Silence
- “I don’t know.”
- “Maybe”
- Lack of objection
- Not fighting back or resisting
- Ambiguous responses such as “uh huh” or “mm hmm” without more
- A verbal “no,” even if it may sound indecisive or insincere

Individuals who are unconscious or in a state of incapacity (as discussed below) cannot consent to sexual activity. Consent can never be obtained by use of force (as defined below), which includes physical force, threats, intimidation, abuse of power, and coercion.

### **3. Incapable of Giving Consent:**

#### ***a. Someone who is incapacitated***

A person can be incapacitated through the use of drugs, alcohol, or any other intoxicating substance, or when they are unconscious, asleep, or otherwise unaware the sexual activity is occurring (see the definition of Incapacity below for more information).

#### ***b. Someone under the legal age of consent (statutory rape)***

The legal age of consent in the Commonwealth of Massachusetts is sixteen (16) years of age. Sexual activity with a person who is under the age of consent (16) is always non-consensual, regardless of whether the underage person was a willing participant in the conduct.

#### ***c. Someone who is cognitively disabled or impaired***

Certain cognitive disabilities or impairments can cause a person to be unable to knowingly consent to sexual activity. It is a violation of this Policy to engage in sexual activity with a person whose cognitive disability or impairment renders them incapable of giving consent and the disability/impairment is known to or should have been known to the non-disabled sexual partner. Under these circumstances, the conduct is non-consensual regardless of whether or not the person appeared to be a willing participant.

### **4. Consent and the Use of Alcohol or Drugs**

Engaging in sexual activity while under the influence of alcohol, drugs or other substances can impair an individual’s ability to be sure they have received consent. A person who has consumed alcohol, drugs and/or other substances still has a responsibility to obtain ongoing consent for any sexual activity with another person(s). The use of alcohol, drugs, or other substances by the person initiating sexual activity will never be an excuse for failing to obtain consent. A person that was using alcohol, drugs, or other substances is never responsible for being subjected to sexual violence. Once a person has reached the point of incapacitation by alcohol, drugs, or other substances, they can no longer consent to sexual activity under this Policy (see definition of Incapacity below).

Because it can be difficult to know when someone has passed from the state of intoxication to a point of incapacitation, there should be no sexual contact with someone if there is any doubt about a person's ability to consent.

## **B. Incapacity**

Incapacity is a state in which someone cannot make a decision, because they lack the ability to understand what is happening. When incapacitated, an individual moves from being simply drunk or under the influence of drugs to being physically and/or mentally debilitated due to their drug or alcohol consumption. Individuals can also be incapacitated when they are unconscious or asleep. A person who is incapacitated cannot consent even if they appear to be a willing participant.

An individual who is intoxicated may be able to consent to sexual activity. However, when an individual passes from intoxication to a state of incapacitation, they no longer have the ability to give consent under this Policy. It is important to remember that it is often difficult to tell when someone has moved from being intoxicated and has become incapacitated. A person who is also under the influence of alcohol and/or other substances may have difficulty assessing whether someone else has moved from intoxication to incapacitation. If there is any question or doubt about whether an individual has become incapacitated, it is best not to engage in sexual activity with them. When in doubt, don't.

Some indications of incapacity include (but are not limited to):

- Slurred speech or other difficulty communicating
- Difficulty walking or standing
- Vomiting
- Trouble keeping eyes open
- Unconsciousness
- Confusion or lack of understanding
- Disorientation to time or place

Sometimes an individual can be incapacitated without displaying any of these signs. For instance, a person in a blackout state may appear to be conscious when they are actually incapacitated and unable to consent. Knowingly engaging in sexual activity with someone who is incapacitated is a violation of this Policy. An individual is responsible for violating this Policy when they engage in sexual activity with someone a reasonable person *would know* or *should have known* was incapacitated. A reasonable person is defined as a reasonable person under similar circumstances and with similar identities, without consideration of that person's intoxication. It is the responsibility of the individual who wants to engage in sexual activity, or the person who is not incapacitated, to make sure that the other individual(s) involved are able to consent.

## **C. Force**

The use of force to cause or make someone engage in sexual activity they would not have otherwise agreed to, or did not want to engage in, is by definition non-consensual. Force is not limited to physical violence, but also includes threats, intimidation, abuse of power, coercion, or any

combination of these behaviors. The presence of force during sexual activity can negate any indications of consent.

## **1. Physical Force**

Physical force is the use of physical power, violence, or strength upon another person's body. It can also be using one's physical size, presence, or a weapon to restrain another. If an individual's use of physical force or, violence, or threats of physical force or violence to make another person participate in or perform a sexual activity they would not have otherwise agreed to or did not want to engage in, it is a violation of this Policy.

Physical force and violence includes (but is not limited to):

- Restraining someone
- Not allowing someone to leave
- Imposing on someone physically
- Using a weapon
- The presence or suggestion of a weapon
- Hitting or pushing someone

## **2. Threats**

A threat occurs when someone says or implies there will be negative consequences from failing to acquiesce to, or comply with, sexual activity or other unwanted conduct. It is a violation of this Policy if an individual uses threats to make another person participate in or perform sexual activity they would not have agreed to engage in otherwise. Threats can be implied, veiled and/or non-verbal.

These behaviors can include (but are not limited to) threats to:

- Inflict harm or injury
- Hurt or kill themselves or someone else
- Expose some secret or embarrassing information or images
- Hurt someone's reputation
- Inflict negative social consequences
- Inflict negative work or educational consequences (e.g., bad grade or poor performance review)

## **3. Intimidation or Abuse of Power**

Intimidation or abuse of power occurs when individuals use their real or perceived authority to pressure another person to submit to sexual activity or other unwanted conduct. Intimidation happens through a display of wealth, status, or power that someone uses to make another do what they want them to do. Real or perceived power can come from things such as class, social status, a teaching position, supervisory role, mentorship, membership in a team or group, or an individual's status within a team or group. It implies a power imbalance between the parties. When an individual uses this power/authority/control to influence another to participate in or perform a

sexual activity or other unwanted conduct that they might not have agreed to engage in otherwise, they have used force in violation of this Policy.

#### **4. Coercion**

Under this Policy, coercion occurs when continual pressure is used to compel someone to engage in sexual activity or other unwanted conduct. The use of this pressure violates the free will of another. Coercion can be bullying an individual into sexual activity or other conduct that they did not and/or would not have wanted to participate in but for the coercion. Coercion can be physical or verbal and often involves persistently badgering someone. Coercion can be a process that happens over a period of time, varying from hours to days to weeks. In assessing whether coercion was used, the frequency, duration, and intensity of the pressure applied will be taken into consideration. When an individual uses coercion to influence another to participate in or perform sexual activity or other unwanted conduct that they might not have agreed to engage in otherwise, they have used force in violation of this Policy.

## **VI. Supportive Measures & Resources/Reporting Options**

Brandeis University provides students, staff, and faculty various options for reporting discrimination, or harassment. Members of the Brandeis community are encouraged to come forward with information regarding violations of this Policy to any of the reporting options listed below.

The University also offers supportive measures and resources to individuals who may have experienced or witnessed violations of this Policy or who may be going through the Formal Complaint Process, Formal Resolution Process, or Title IX Grievance Process or participating in such a process, or who are otherwise impacted by prohibited conduct and are covered by this Policy.

### **A. Supportive measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and available (without fee or charge) to a complainant, respondent, any other participant in a process, or any other individual impacted by prohibited conduct and covered by this Policy, regardless of whether a formal complaint has been filed or a process is being pursued, is ongoing, has been dismissed, or has concluded. Such measures are designed to restore or preserve access to Brandeis' educational programs/activities and employment, to protect the safety of all parties, and/or provide support during the Formal Complaint Process and/or Title IX Grievance Process, all without unreasonably burdening the other party. These resources are available as appropriate even if a person chooses not to pursue a complaint or otherwise take action regarding the conduct.

Supportive measures and resources may include, but are not limited to, health and counseling services, advocacy services, Employee Assistance Program (EAP) services, referral to community-based service providers (some of which are noted below), visa and immigration assistance, student financial aid counseling, education to the community or a community subgroup(s), housing changes, adjusting work arrangements for employees or student-employees, safety planning (including providing campus safety escorts), transportation accommodations, academic support (including extensions of deadlines, or other course/program-related adjustments), class schedule modifications,



withdrawals or leaves of absence,<sup>15</sup> increased security and monitoring of certain areas of the campus, no trespass orders, campus restrictions, and any other actions deemed appropriate by the Director of OEO or their designee. Supportive measures can also include No Contact Orders, Emergency Removal, and Administrative Leave, which are each discussed below. The University may also issue timely warnings as appropriate.

When OEO receives notice of an alleged violation of this Policy, OEO will promptly offer and coordinate appropriate and reasonable supportive measures and resources to the person (student, staff, faculty) who experienced the alleged conduct. The person who experienced the alleged conduct will be informed about their right to file a formal complaint at that time or in the future and about supportive measures. OEO will work with that individual to determine what supportive measures, if any, may be useful and appropriate. An individual will have the option to choose to use or not to use supportive measures. Privacy surrounding the implementation of any supportive measures will be maintained, unless privacy impedes the effective implementation of the supportive measures. The goal in implementing any supportive measure will be to minimize the academic or employment impact on either party and to make sure no one is unreasonably burdened by any of these measures. If, or when, the person accused of the alleged conduct is notified that the alleged conduct has been reported to the University, OEO will also promptly offer and coordinate supportive measures available to the accused individual as well with these same provisions.

The Parties are provided with a timely opportunity to seek modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Director of the Office of Equal Opportunity or their designee. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with any applicable regulatory definition of supportive measures. OEO will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change.

For more information about supportive measures & resources, please visit the [OEO website](#).

## **1. Emergency Removal of Students**

The University reserves the right to issue an Emergency Removal (students), prior to the commencement or conclusion of a Resolution Process or Title IX Grievance Process consistent with this paragraph and Section 21.8 of Rights and Responsibilities. Emergency Removal of students may take place when an individualized safety and risk analysis determines that an imminent and serious threat to the health or safety of any students, employees, or other persons arising from allegations of discrimination, harassment, or retaliation under this Policy justifies removal. Consistent with Sections 21.8 and 21.9 of Rights and Responsibilities, any student being removed will be provided with notice and an opportunity to challenge the decision following the removal. Decisions regarding whether to remove a student on an emergency basis will be made by the Dean of Students Office, in consultation with the Office of Equal Opportunity (OEO).

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<sup>15</sup> For employees dealing with domestic violence in their family, please also review the University's [Domestic Violence Leave Policy](#).

## **2. Administrative Leave**

The University reserves the right to put an employee or student employee alleged to have violated this Policy on immediate leave or to reassign their duties when appropriate to (1) ensure the physical safety or well-being of members of the Brandeis community; (2) prevent the disruption of, or interference with, the normal operations of the University or the Investigation; and/or (3) when such a restriction is deemed necessary by the University. Decisions regarding whether to place an employee on leave will be made by Human Resources, in consultation with the OEO, the employee's supervisor or academic dean, or the Provost (or their designee), as appropriate. Decisions regarding whether to place a student employee on administrative leave will be made by Student Employment, in consultation with OEO, the student employee's supervisor, or an individual in the supervisory chain, as appropriate.

## **3. No Contact Orders (NCO)**

A No Contact Order (NCO) is an administrative tool that restricts contact, interaction, and communication between two or more individuals, either directly or through others (e.g., friends, family members, attorneys, etc.). An NCO may also include restrictions regarding an individual's ability to access certain spaces on campus. A student NCO can be put in place as an informal administrative tool used in lieu of a process, in conjunction with the initiation of a process, or as a sanction if there is a finding of responsibility through a process. Student NCOs are issued and administered by the Dean of Students Office, though the decision to issue one as a supportive measure is made by OEO. On occasion, the Department of Public Safety, DCL, or a University official may issue a temporary verbal restriction on contact which will be followed up by the Dean of Students Office on the next business day. An NCO involving staff or faculty may be issued and administered by Human Resources, at the request of OEO, and in consultation with Human Resources, the employee's supervisor or academic dean, or the Provost (or their designee), as appropriate.

Violations of the terms of an NCO can result in the initiation of a separate conduct process and/or may result in more serious supportive measures being put into place. Violations of an NCO may also be resolved through any pending Formal Resolution Process, Title IX Grievance Process, or through a separate disciplinary process. Decisions regarding how to address a violation of a student NCO will be made by the Dean of Students Office, in consultation with OEO. Decisions regarding how to address a violation of an employee NCO will be made by Human Resources, in consultation with OEO, the employee's supervisor or academic dean, or the Provost (or their designee), as appropriate.

## **B. Confidential Reporting Options/Supportive Resources**

Certain professionals on the Brandeis campus and in the community have legally recognized privilege or are otherwise designated as confidential by Brandeis, which requires them to keep information confidential when it is disclosed to them in the course of their professional role. This means that, except under limited circumstances, they must keep what their clients tell them secret. These individuals will maintain the confidentiality of those disclosure unless (i) they are given

permission to share information by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 18; or (iv) as otherwise required or permitted by law or court order. Confidential resources include medical care providers, mental health care providers, rape crisis counselors, ordained clergy, and attorneys, all of whom have privileged confidentiality that is recognized by law. As discussed below, though not necessarily privileged under law, confidential resources at Brandeis also include the Prevention, Advocacy and Resource Center (PARC) for students and the University Ombuds for both students and employees.

Making a disclosure to a confidential resource means that Brandeis University will not be placed on notice of the incident. Without that information, the University will not be able to address that incident in any manner. However, confidential on-campus resources can assist individuals in receiving support resources (such as counseling, housing changes, and academic support) when requested and provide information about non-confidential reporting options if that person decides they want to notify Brandeis of the conduct.

## 1. Confidential On-Campus Reporting/ Supportive Resources

### *a. Confidential For Students:*

#### **Prevention, Advocacy and Resource Center (PARC) – CONFIDENTIAL RESOURCE PROVIDER**

781-736-3371

[parc@brandeis.edu](mailto:parc@brandeis.edu)

The Prevention, Advocacy and Resource Center (PARC) provides education, empowerment and confidential support related to sexual assault, sexual harassment, dating violence, domestic violence, and stalking through peer advocates and professional staff. Whether a person personally has experienced violence, or is not sure how to feel about an experience, or is worried about a friend – PARC is available to help with information about options, advocacy on their behalf, and accompaniment to resources such as the police or court, and more. Confidential advocates are available over online chat and in person. Office drop-ins are welcome from noon to 5 p.m. any day classes are in session. Appointments are always available with professional staff.

#### **Brandeis Counseling Center (BCC) - CONFIDENTIAL**

781-736-3730

781-736-3785 (after-hours emergency consultation)

[bcc@brandeis.edu](mailto:bcc@brandeis.edu) (non-urgent email)

The Brandeis Counseling Center (BCC) provides counseling for all students in times of stress, and is experienced in dealing with deeper developmental and psychological issues ranging from trauma and depression to substance abuse and eating disorders. Treatment is available in English, Hebrew, Mandarin, and Spanish. All concerns are addressed with sensitivity to, and respect for, diversity and individuality. The BCC can provide confidential, short-term individual therapy and group therapy, also offering psychiatry and medication management. The BCC can provide referrals to off-campus

resources for longer term care through the case manager. All services delivered at the BCC will be billed to insurance with no out-of-pocket expense for students.

**Brandeis Health Center - *CONFIDENTIAL***

781-736-3333 (for emergencies on campus - off campus call 911)

781-736-3677 (for appointments) or through the secure patient portal

781-239-1948 (for after-hours consultation)

Brandeis Health Center is a resource for all students providing medical assessment, diagnosis, treatment, and consultation as well as preventive and wellness health promotion. The Brandeis Health Center is staffed with licensed board-certified providers (MDs and Nurse Practitioners) committed to meeting healthcare needs. All services are respectful, inclusive, accessible, and confidential. The Health Center provides confidential, non-judgmental services for diagnostic testing for STI's, emergency contraception (Plan B), pregnancy testing, and referral for other support services related to sexual assault, violence, and non-consensual contact.

**Center for Spiritual Life - - *CONFIDENTIAL RESOURCE PROVIDER***

781-736-3570

The Center for Spiritual Life at Brandeis offers counseling, support, and community to students of all faiths. The Chaplains are a confidential resource that help oversee on-campus worship and student religious life while also offering community support in times of joy and crisis. For students of all levels of spirituality, the Chaplaincy can serve as a home away from home. As a Confidential Resource Provider for students regarding sexual violence, the Chaplains can provide students with information about reporting options and the effects of each option, counseling options on and off campus, medical and health services on and off campus, supportive measures, information on Brandeis' disciplinary process, information on the criminal justice process, and rights regarding protection orders and no contact orders.

**University Ombuds - *CONFIDENTIAL***

781-736-2265

[brandeisombuds@brandeis.edu](mailto:brandeisombuds@brandeis.edu)

The University Ombuds office is a confidential, independent, impartial, and informal resource for all members of the Brandeis Community including undergraduates and graduate students, faculty, staff, and alumni. The Ombuds support individuals by providing a safe space to confidentially talk about difficult situations. The Ombuds meets personally with individuals to actively listen to concerns and discuss options and resources for conflict resolution. The Ombuds can help individuals evaluate options to address concerns, help identify others who can help, explain University policies and procedures, facilitate communication between people, discuss ways to resolve problems informally, and explain options for taking action.

***b. Confidential For Staff and Faculty:***

**University Ombuds – CONFIDENTIAL**

781-736-2265

[brandeisombuds@brandeis.edu](mailto:brandeisombuds@brandeis.edu)

The University Ombuds office is a confidential, independent, impartial, and informal resource for all members of the Brandeis Community including undergraduates and graduate students, faculty, staff, and alumni. The Ombuds support individuals by providing a safe space to confidentially talk about difficult situations. The Ombuds meets personally with individuals to actively listen to concerns and discuss options and resources for conflict resolution. The Ombuds can help individuals evaluate options to address concerns, help identify others who can help, explain University policies and procedures, facilitate communication between people, discuss ways to resolve problems informally, and explain options for taking action.

**Employee Assistance Program (EAP) - CONFIDENTIAL**

800-624-5544 (available 24/7)

[KGA MyLifeServices \(kgalifeservices.com\)](http://KGA.MyLifeServices(kgalifeservices.com)) (login password: brandeis university)

The EAP is available to all employees at no cost, through KGA. The EAP provides an array of services to employees and their dependents and/or household members for personal or work-related issues, including short-term confidential counseling sessions, legal consultation, financial consultation, and other services.

**OCCUPATIONAL HEALTH – CONFIDENTIAL RESOURCE PROVIDER FOR SEXUAL MISCONDUCT OR VIOLENCE ONLY**

781-736-8769

[SuzanneRaj@brandeis.edu](mailto:SuzanneRaj@brandeis.edu)

Suzanne Raj, in Occupational Health, serves as a Confidential Resource Provider for disclosures of sexual misconduct and sexual violence only. She is not a confidential resource for other topics. As a Confidential Resource Provider for employees regarding sexual violence, Suzanne can provide employees with information about reporting options and the effects of each option, counseling options on and off campus, medical and health services on and off campus, supportive measures, information on Brandeis' disciplinary process, information on the criminal justice process, and rights regarding protection orders and no contact orders.

## **2. Confidential Off-Campus Reporting/Supportive Resources**

There are numerous reporting options and support resources available off campus, a few of which have been included here. For more information regarding other off-campus resources, please visit the OEO website ([www.brandeis.edu/equal-opportunity](http://www.brandeis.edu/equal-opportunity)).

*Boston Area Rape Crisis Center (BARCC)*

617-492-8306

800-841-8371 (24/7 hotline)

BARCC provides confidential counseling, legal advice, and advocacy to help individuals who have experienced sexual assault or other trauma. They provide medical advocacy to provide support individuals through the evidence collection process (“rape kit”). All services are free and available regardless of sex or gender.

*Newton Wellesley Hospital*

617-243-6000

The hospital can provide confidential medical treatment for injuries or other medical concerns. The hospital can also order Evidence Collection Kits (“rape kits”) if requested. These kits are usually administered by specialized Sexual Assault Nurse Examiner (SANE) nurses. The hospital will also automatically provide a Boston Area Rape Crisis Center Medical Advocate to support you through the collection kit, and have in-house programs providing additional services to victims of sexual/domestic violence. For more information about Evidence Collection Kits, visit [www.surviverape.org](http://www.surviverape.org).

*REACH Beyond Domestic Violence*

781-891-0724 800-899-4000 (24/7 hotline); [online chat](#)

REACH provides free safety planning, advocacy, and support services to victims of domestic and dating violence. Confidential crisis counselors are available 24/7 to talk to individuals who have experienced domestic and dating violence or those looking for information on ways to help people experiencing this behavior.

### **C. Other Reporting Options/ Supportive Resources**

There are additional reporting options available to the Brandeis community. These reporting options are not confidential which means that the University will be put on notice regarding this information and the reports will be directed to the Office of Equal Opportunity (OEO) ([oeo@brandeis.edu](mailto:oeo@brandeis.edu); 781-736-4806). However, any information that is reported will be handled with privacy and discretion by OEO. Only those administrators within the University who are responsible for addressing this conduct, can assist with supportive measures & resources, or otherwise have a legitimate need to know will be informed of the disclosure.<sup>16</sup> The individual who

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<sup>16</sup> Brandeis will not share the identity of any individual who has made a Complaint of discrimination, harassment, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures. Internally, information will typically only be shared with a small group of officials who need to know about the alleged incident. As discussed in our Formal Complaint Process, if there is a formal investigation, information will be shared as necessary with Investigators, Decision-makers, Appeal Decision-makers, witnesses, the Parties, and the Parties’ support

experienced the alleged conduct will have the option to decide whether to pursue and participate in any form of process regarding the incident they are reporting. As discussed in the Formal Complaint Process, there may be times when the University may move forward with an Administrative complaint even if the person who experienced the alleged conduct chooses not to participate.

Any employee who is not listed as a confidential resource above should be considered to have the obligation to disclose information to the OEO. For more information regarding who needs to report to OEO, see the section of this Policy regarding [Responsible Reporters](#).

1. [Brandeis Department of Public Safety](#)  
781-736-3333 (emergency) (available 24/7)  
781-736-5000 (non-emergency)

Anyone in the Brandeis community can call with concerns about safety or well-being 24 hours a day, seven days a week. The Brandeis Department of Public Safety conducts investigations into behavior that may be criminal. However, simply calling the Department of Public Safety does not require you to file or pursue criminal charges. Public Safety can provide transportation to the hospital/court (or can provide cab vouchers). Public Safety can help students who may need immediate access to safe housing. Public Safety can issue no-trespass orders and provide information about restraining orders and other orders of protection available through the courts. Public Safety can also help the University implement any requirements of a court order of protection issued to a student or employee.

2. [Office of Equal Opportunity \(OEO\)](#)  
781-736-4806  
[oeo@brandeis.edu](mailto:oeo@brandeis.edu)

The Office of Equal Opportunity (OEO) is responsible for assisting students, faculty, and staff with all issues of discrimination, harassment & sexual violence (including sexual assault, dating violence, domestic violence, stalking, and sexual exploitation). OEO can receive reports of such conduct and will provide information regarding supportive measures & resources, including mutual no-contact orders, housing changes, and academic support. OEO can also provide information about what options may be available for taking action, including internal resolution processes and criminal action. In most cases, the decision regarding whether to initiate action will remain with the person who experienced the conduct.

3. [Department of Community Living \(DCL\)](#)  
781-736-5060 or 781-736-3333  
(after hours contact DCL through the Department of Public Safety)  
[dcl@brandeis.edu](mailto:dcl@brandeis.edu)

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person and/or Advisor. The circle of people with this knowledge will be kept as tight as possible to preserve individuals' rights and privacy.



Community Advisors (CAs), Area Coordinators (ACs), and other DCL staff are available 24 hours a day to assist individuals who may have concerns about discrimination, harassment, or sexual violence. DCL can help connect students with supportive measures & resources, including confidential reporting options. DCL can help contact the Brandeis Department of Public Safety if there are concerns about safety, a need for transportation to the hospital, or if someone wishes to file a police report. DCL can help students who may need immediate access to temporary or long-term housing changes.

4. [Academic Services](#)  
781-736-3470  
[academicsupport@brandeis.edu](mailto:academicsupport@brandeis.edu)

The Academic Services office is available to assist students who have concerns about discrimination, harassment, or sexual violence that is impacting their academic endeavors. Students can request academic support when they find that this conduct is negatively affecting their ability to complete their studies. Students can access academic support by working with OEO or the Prevention, Advocacy and Resource Center (PARC). Students can also request academic support directly through Academic Services.

5. [Online Reporting](#) (Anonymous reporting option)  
844-635-4502  
[www.brandeis.ethicspoint.com](http://www.brandeis.ethicspoint.com)

To make reporting concerns about discrimination, harassment, or sexual violence easier, Brandeis uses an independent third-party company, EthicsPoint, to provide a confidential, online reporting option for members of our community. This reporting portal provides the option to submit reports anonymously. Reports made through this online reporting portal regarding discrimination, harassment, or sexual violence will be forwarded to OEO ([oeo@brandeis.edu](mailto:oeo@brandeis.edu); 781-736-4806). Anyone filing a report through EthicsPoint will be assigned a report key and will be asked to create a password at the end of the process, both of which should be written down. Anonymous reporters should use their report key and password to log back into their report within 5 to 6 days. This reporting portal allows the University to send information and ask questions of the anonymous reporter while maintaining their anonymity. Individuals who report anonymously but do not follow up on their report should not expect any action to be taken on that report.

6. [Office of Human Resources](#)  
(781) 736-4474  
[humanresources@brandeis.edu](mailto:humanresources@brandeis.edu)

The Office of Human Resources supports all Brandeis employees in the performance of their employment responsibilities and in their well-being. Employees with concerns about discrimination, harassment, or sexual violence can also reach out for support from Human Resources, keeping in mind that those reports will be shared with OEO.

7. [Dean of Students Office](#)  
781-736-3600  
[deanofstudentsoffice@brandeis.edu](mailto:deanofstudentsoffice@brandeis.edu)



The Dean of Students Office serves as a centralized resource to advocate for and support all students at Brandeis, helping to connect students with University and community programs and offices. Concerns regarding any student violation of Brandeis' Rights and Responsibilities or other University policies can be reported to the Office of the Dean of Students. The Department of Student Rights and Community Standards addresses student violations of University policies outside of the Policy Against Discrimination, Harassment & Sexual Violence. Student concerns about discrimination, harassment, or sexual violence can be reported to the Dean of Student Office, keeping in mind that those reports will be shared with OEO.

8. [Academic Deans and Provost](#)  
(781) 736-2101  
[www.brandeis.edu/provost/about/deans](http://www.brandeis.edu/provost/about/deans)

The Academic Deans and the Provost are available to support faculty within their schools with any questions regarding their position or with any academic support they may need. Faculty members with concerns about discrimination, harassment, or sexual violence can reach out to their Academic Deans or the Provost for support, keeping in mind that those reports will be shared with OEO.

## **D. Responsible Reporters**

All employees of Brandeis—including faculty and staff—are considered Responsible Reporters who have a duty to report any incidents of discrimination, harassment, or sexual violence to OEO. Only employees who are part of on-campus confidential resources (including BCC; Brandeis Health Center; Center for Spiritual Life Chaplains; PARC; the University Ombuds; and for Sexual Violence only, Occupational Health) are relieved from this duty to report. Student employees are also Responsible Reporters when they receive information while they are working, including students with teaching responsibilities. Community Advisors (CAs) are considered a resource for students at all times with an obligation to report any information disclosed to them as they are always Responsible Reporters.

A Responsible Reporter who becomes aware of a possible incident of discrimination, harassment, or sexual violence must report all relevant details, including any known names, through EthicsPoint ([www.brandeis.ethicspoint.com](http://www.brandeis.ethicspoint.com)) or directly to the Office of Equal Opportunity (OEO) (781-736-4806 [oeo@brandeis.edu](mailto:oeo@brandeis.edu)). The failure to properly report such incidents may result in disciplinary action up to and including termination for an employee. A Responsible Reporter should not share information with others, including their supervisors, chairs, deans, law enforcement (unless there is an immediate threat), or the person accused of the conduct, unless the disclosing individual specifically asks to have others be involved. OEO will be responsible for apprising any other people on campus who may need to be involved in addressing these concerns. All Responsible Reporters should make the extent of their reporting obligations clear to the disclosing individual and provide that individual with confidential reporting options and information about supportive measures & resources, to the best of their ability. Responsible Reporters cannot report anonymously.

## **E. External Reporting Options/ Administrative Agencies**

### **1. Waltham Police**

155 Lexington St  
Waltham, MA 02454  
911 (emergency)  
(781) 893-3700 (non-emergency)

Investigates criminal reports of Waltham-based crimes and has concurrent jurisdiction with the Brandeis Department of Public Safety for crimes that happened at Brandeis University.

### **2. Massachusetts State Police**

General Headquarters  
470 Worcester Road  
Framingham, MA 01702  
508-820-2300

Investigates criminal reports against campus and municipal police officers.

### **3. U.S. Department of Education, Office for Civil Rights (OCR)**

5 Post Office Square, 8th Floor  
Boston, MA 02109  
617-289-0111

Works to end discrimination in schools and investigates grievances.

### **4. Massachusetts Commission Against Discrimination (MCAD)**

John McCormack Building  
One Ashburton Place  
Sixth Floor, Room 601  
Boston, MA 02108  
617-994-6000

Works to end discrimination in employment in Massachusetts and investigates grievances.

### **5. Equal Employment Opportunity Commission (EEOC)**

JFK Federal Building  
475 Government Center  
Boston, MA 02203  
800-669-4000

Works to end discrimination federally in employment and investigates grievances.

## VII. Rights

Students, staff, and faculty who report incidents of discrimination, harassment, or retaliation have certain rights under this Policy and applicable laws. All individuals have the right to:

1. Have disclosures of discrimination; harassment, including sexual assault, dating violence, domestic violence, stalking and sexual exploitation; and retaliation treated seriously by the University.
2. Seek supportive measures and resources such as health and counseling services, advocacy services, schedule and housing changes, academic support and/or work adjustments, as applicable, regardless of where the alleged conduct occurred.
3. Notify law enforcement of the incident and seek their involvement if applicable. They also have the option to decline to involve law enforcement.
4. Seek a No Contact Order through the University or an order of protection through the courts.
5. Participate in a Formal Resolution Process or Title IX Grievance Process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard.
6. To utilize the University's resolution processes concurrently with any external civil or criminal processes that may also be available.
7. Have one support person or advisor of their choice present at all meetings with administrators in the Formal Complaint Process, Formal Resolution Process and/or Title IX Grievance Process.
8. Receive notification in writing of the outcome of any Formal Resolution Process or Title IX Grievance Process.

*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 Equal Opportunity

August 2024

## **Appendix A - Selected Massachusetts State Definitions**<sup>17</sup>

- **Rape** - Rape is defined as having sexual intercourse or unnatural sexual intercourse with a person and compelling such person to submit by force and against his or her will, or compelling such person to submit by threat of bodily injury. [\*See Massachusetts General Laws Section 265 Chapter 22\*](#)
- **Domestic abuse** - Abuse from an adult or minor family or household member.

*Abuse* is the occurrence of one or more of the following acts between family or household members:

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

*Family or household members* are persons who:

- are or were married to one another;
- are or were residing together in the same household;
- 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 shall be adjudged by district, probate, or Boston municipal courts consideration of 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.

[\*See Massachusetts General Laws Chapter 209A\*](#)

- **Stalking** - An individual engages in stalking if they:
  - 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
  - makes a threat with the intent to place the person in imminent fear of death or bodily injury.[\*See Massachusetts General Laws Chapter 265 Section 43\*](#)
- **Consent** - There is currently no state statutory definition of consent in Massachusetts.

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<sup>17</sup> These are Massachusetts' definitions for criminal conduct which may differ from the definitions in this Policy. Definitions are current as of July 2024. For the most up-to-date information, visit the referenced sources. These definitions are provided to convey general information and do not constitute legal advice.