



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, caste, sex, pregnancy, 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 Massachusetts 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) and the ADA Amendments Acts (ADAAA); Section 503 and 504 of the Rehabilitation Act; and the Age Discrimination in Employment Act (ADEA). Brandeis University

affirms its commitment to equal opportunity and affirmative action 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), and Dr. Arnita Walls, Interim Director of OEO, can be contacted at arnitaw@brandeis.edu. The Office of Equal Opportunity is located on the lower level of the Bernstein-Marcus Administration Center.

Violations of this Policy are subject to action through the processes outlined in [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.¹ Training and other educational responses may also be issued in response to a finding of responsibility.

Allegations against any employee (staff or faculty) of discrimination, harassment and/or sexual violence in violation of 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 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 against anyone who makes a report or complaint regarding a violation of this Policy, or who in any way participates in an inquiry or investigation of an alleged violation of this Policy is strictly prohibited. A person engaging in retaliatory conduct will be subject to disciplinary action by the University.

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 University can be found on the [OEO website](#). If government regulations change in a way that impacts this Policy, this Policy will be construed to comply with government regulations in their most recent form.

II. Scope of Policy/ Jurisdiction

This Policy applies to all students², employees (staff and faculty)³ and any other individuals who participate in the University's programs or activities or who are otherwise on campus. This Policy applies to conduct occurring on-campus and in off-campus Brandeis programs, activities or events (including, but not limited to, any national or international University-sponsored or University-led trips). This Policy may also apply to conduct that occurred off-campus but that has an impact on the Brandeis community.

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

²The term student includes any person enrolled in any (undergraduate or graduate) academic program or course at Brandeis University, including Brandeis-sponsored distance or Internet-based courses, up to and including the student's commencement day or the last day of evaluation for non-degree students.

³ "Employees" refers to anyone employed by Brandeis in any capacity including faculty and staff.

On occasion, the person accused of discrimination, harassment, or sexual violence may be someone who is not a Brandeis community member, or who formerly was a Brandeis community member. Under those circumstances, the University's ability to respond to the incident may be limited. Brandeis can 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 non-Brandeis community member, a former Brandeis community member or a third party has experienced discrimination, harassment, or sexual violence which is alleged to have been committed by a Brandeis student or employee, which may or may not have occurred on campus or at a University program, activity or event. When the person who experienced the conduct is not, or no longer is, a University community member, Brandeis maintains the option to exercise discretionary jurisdiction over that incident under certain circumstances. Concerns that are raised by a non-Brandeis community member or third party should be referred to the Office of Equal Opportunity (OEO) (oeo@brandeis.edu; 781-736-4806) for a determination regarding whether Brandeis will exercise discretionary jurisdiction over a non-affiliate complaint. In determining whether to exercise discretionary jurisdiction over these types of matters, 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 conduct an initial assessment into the allegations before making a determination regarding whether to exercise discretionary jurisdiction over the matter.

III. Academic Freedom

Brandeis University adheres to the principles and traditions of academic freedom, 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, caste, sex, pregnancy, 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. An adverse action against an individual can include events such as giving someone a poor grade or performance review, terminating someone’s employment, failing to promote an individual, excluding someone from a program or denying them admission.

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 employee based on their age
- Not recommending a person for promotion based on their gender-identity

B. Harassment Based on a Protected Category

Harassment Based on a Protected Category (“harassment”) occurs when there is unwelcome or unwanted verbal or physical conduct which is objectively offensive and severe, persistent, or pervasive and is directed at an individual based on their membership in one (or more) of the *Protected Categories*. *Protected Categories* include race, color, national origin, ethnicity, caste, sex, pregnancy, 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 Massachusetts law.

Harassment includes objectively offensive conduct that can be verbal, non-verbal, visual and/or physical in nature. Harassment 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 objectively offensive and severe, pervasive, or persistent so that it interferes with a person’s education or work environment. Sending someone sexually explicit photographs or recordings without their consent can also constitute a form of harassment. Single, isolated incidents will often not be enough to rise to the level of harassment. A reasonable person is defined as a reasonable person under similar circumstances and with similar identities. Such conduct can have the effect of limiting an individual’s equal access to the University’s educational or employment opportunities.

Conduct can also constitute sexual harassment when submission to, or rejection of, unwelcome advances, requests or conduct is made either explicitly or implicitly a term or condition of one’s

education or employment or is a basis for education or employment decisions (referred to as “Quid Pro Quo” harassment). For information regarding Quid Pro Quo harassment by an employee, please see the section on [Title IX Sexual Harassment](#).

Harassment based on a *Protected Category* 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.”
- 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.
- 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.”

Please note that Brandeis University also has a policy regarding Consensual Romantic or Sexual Relationships between Faculty, Staff and Student. This policy 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 Student](#).

C. 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 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.

1. 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. Even if the images were taken 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 the photographs or recording. 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.

2. 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.

3. Indecent Exposure

Indecent exposure is 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. Title IX Sexual Harassment/Violence

The conduct discussed below falls under the definition of Title IX Sexual Harassment/Violence under this Policy. In addition to falling within these definitions, the conduct must also meet the jurisdictional requirements found in the [Title IX Grievance Process](#) to be considered Title IX Sexual Harassment/Violence. If the conduct does not meet the requirements to be considered Title IX Sexual Harassment/Violence, it may still be a violation of this Policy under another section, such as Harassment Based on a Protected Category, Sexual Exploitation or Sexual Violence (Non-Title IX).

1. Title IX Quid Pro Quo Sexual Harassment By An Employee

Title IX Quid Pro Quo Sexual Harassment by An Employee occurs when a University employee 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 of the University conditions the provision of an aid, benefit, or service of Brandeis on an individual's participation in unwelcome sexual conduct.

2. Title IX Sexual Harassment

Title IX Sexual Harassment is unwelcome conduct that a reasonable person would find to be so severe, pervasive, *and* objectively offensive that it effectively denies them equal access to the University's education program or activity. A reasonable person is defined as a reasonable person under similar circumstances and with similar identities. When conduct that is defined as Sexual Exploitation above also meets the three criteria under this section, it will be addressed as Title IX Sexual Harassment. If the conduct does not meet all three criteria (severe, pervasive, and objectively offensive) and/or does not meet the jurisdictional requirements found in the [Title IX Grievance Process](#), it does not fall within the definition of Title IX Sexual Harassment. However, this conduct may still constitute Harassment Based on a Protected Category or Sexual Exploitation under this Policy.

3. Title IX Sexual Violence

Conduct is considered Title IX Sexual Violence when it meets one (or more of) the definitions below *and* meets the jurisdictional requirements found in the [Title IX Grievance Process](#). If the conduct does not meet the jurisdictional requirements in the Title IX Grievance Process it may still be considered Sexual Violence (Non- Title IX) under this Policy (as discussed [below](#)). In either case, Title IX Sexual Violence and Sexual Violence (Non-Title IX) include Sexual Assault, Dating Violence, Domestic Violence and Stalking.

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 is incapable of giving consent. This definition includes 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.
- Oral or anal sexual intercourse committed through the use of force, without consent and/or where a person is incapable of giving consent.
- Penetration with an object or instrument, however slight, of the genital or anal opening of the body 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.

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. 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:

- Current or former spouse or intimate partner of the Complainant
- Person with whom the Complainant shares a child in common
- Person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner (not just a roommate)
- Person similarly situated to a spouse of the Complainant

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

d. Stalking

Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress.

- 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.

E. Sexual Violence (Non-Title IX)

Conduct is considered Sexual Violence (Non-Title IX) when it meets one (or more) of the definitions of Title IX Sexual Violence (as discussed [above](#) in Section IV, D, 3) *but does not* meet the jurisdictional requirements found in the [Title IX Grievance Process](#). If the conduct does not meet the jurisdictional requirements in the Title IX Grievance Process but *does* meet one (or more of) the definitions found under Title IX Sexual Violence, then the conduct is considered Sexual Violence (Non-Title IX) in violation of this Policy. In either case, Title IX Sexual Violence and Sexual Violence (Non-Title IX) include Sexual Assault, Dating Violence, Domestic Violence and Stalking as defined above.

Based on the jurisdictional requirement under Title IX, the following are examples of some conduct that would not be Title IX Sexual Violence, but would still be a violation of this Policy as Sexual Violence (Non-Title IX).

- A sexual assault by a Brandeis student that occurs off-campus
- Dating violence committed by a Brandeis community member while studying abroad
- Stalking of a non-Brandeis community member by a Brandeis employee or student

F. Retaliation

Retaliation is an adverse or negative action taken against an individual for reporting concerns about discrimination, harassment, or sexual violence participating in a resolution process or investigation, or otherwise exercising their rights under this Policy. No one may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IV, Title VII, Title IX, (or any other applicable law conferring protections against retaliation) or this Policy because the individual has made a report or complaint, given a statement, assisted, or participated or refused to participate in any manner in an investigation, proceeding, inquiry, assessment, or hearing. A retaliatory action can include (but is not limited to):

- Aggression
- Intimidation
- Threats or verbal abuse
- Exclusion
- Different treatment
- Harassment or bullying

Retaliation against anyone who files a complaint of discrimination, harassment, or sexual violence and/or who participates in an inquiry or investigation into those behaviors is strictly prohibited. Any person – student, staff, or faculty - who retaliates against an individual for reporting discrimination, harassment, or sexual violence and/or for participating in an inquiry or investigation is subject to disciplinary action up to, and including, dismissal from the University or termination of employment. 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 and the person(s) engaging in the conduct to disciplinary action. Brandeis has the discretion to address issues of retaliation through any Process associated with this Policy or through a student conduct or employee process. The

Office of Equal Opportunity (OEO), in consultation with the Dean of Students Office and/or Human Resources, in consultation with the employee's supervisor, academic dean, or the Provost (as applicable), will have the discretion to decide what process will be utilized to address incidents of retaliation on a case by case basis.

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 maybe 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. Reporting Options/Supportive Measures & Resources

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. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and available (without fee or charge) to a complainant, respondent or any other participant in a process regardless of whether a formal complaint has been filed or a process is being pursued. Such measures are designed to restore or preserve access to Brandeis' educational programs/activities and employment, without unreasonably burdening the other party, including measures designed to protect the safety of all parties and/or to deter harassment. These resources are available as appropriate even if a person chooses not to pursue a complaint or otherwise take action regarding the conduct.

Upon notice of any Prohibited Conduct or other alleged violation of this Policy, the University will offer and implement appropriate and reasonable supportive measures and resources to the person who experienced the alleged conduct. Supportive measures and resources may include, but are not limited to, health and counseling services, advocacy services, Employee Assistance Program (EAP),

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, increased security and monitoring of certain areas of the campus, and any other actions deemed appropriate by the Director of the Office of Equal Opportunity (OEO) (or their designee) as the Title IX Coordinator for Brandeis. The University may also put interim measures in place as deemed necessary, which may include mutual no-contact orders, no trespass orders, campus restrictions, and emergency removal. The University may also issue timely warnings as appropriate.

When the OEO receives notice of an alleged violation of this Policy, they will promptly make supportive measures available to the person (student, staff, faculty) who experienced the alleged conduct. The person who experienced the alleged conduct will be informed, in writing, 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 make supportive measures available to the accused individual as well with these same provisions. For more information about supportive measures & resources, please visit the [OEO website](#).

A. Confidential Reporting Options/Supportive Measures & Resources

Certain professionals on the Brandeis campus and in the community have legally recognized privilege 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 disclosures 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.

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 Measures & Resources

a. Confidential For Students:

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

781-736-3371

781-736-3370 (24/7 hotline)

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 24/7 via the hotline, 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 (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, Cantonese, 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 health care 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*

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.

University Ombuds – *CONFIDENTIAL RESOURCE PROVIDER*

781-736-2265

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:

Center for Spiritual Life - *CONFIDENTIAL*

781-736-3570

The Center for Spiritual Life at Brandeis offers counseling, support, and community to individuals 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 individuals of all levels of spirituality, the Chaplaincy can serve as a home away from home.

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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)

www.ndbh.com (username: brandeis university)

The Employee Assistance Program (EAP) is available to all employees at no cost, through New Directions. The EAP provides an array of services to employees and their dependents and/or household members for personal or work-related issues, including up to three (3) short-term confidential counseling sessions, legal consultation, financial consultation and other services.

2. Confidential Off-Campus Reporting/Supportive Measures & 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).

[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 experience 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 to 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.

B. Other Reporting Options/ Supportive Measures & 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; 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. When the accused person is a student, the individual who experienced the alleged conduct will have the option to decide whether to pursue any form of process regarding the incident they are reporting. In situations where the accused person is an employee, the University may be required to move forward when conduct violating this Policy has been reported. In any case, once Brandeis is on notice of the concern, it will strive to stop the conduct and prevent its recurrence on campus regardless of whether action is initiated.

Anyone who is not listed as a confidential resource above should be considered to have the obligation to disclose information to the OEO. OEO can help facilitate other, non-confidential supportive measures & resources on campus, such as 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, increased security and monitoring of certain areas of the campus, and any other actions deemed appropriate by the Director of OEO (or their designee). 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 maybe 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 protections 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

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, 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 Department of Public Safety)
dcl@brandeis.edu

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

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

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 options 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 (o eo@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

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

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

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 made 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.

C. 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 and the University Ombuds) 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, to the Office of Equal Opportunity (OEO) (781-736-4806 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.

D. Interim Measures

Brandeis has the discretion to use interim measures, such as emergency removals, administrative leaves and mutual no contact orders, when alleged violations of this Policy are reported. In determining whether to issue interim measures, Brandeis will consider, among other factors, whether the alleged conduct poses a safety risk to the University community.

1. Emergency Removal/Leave

The University reserves the right to issue an Emergency Removal (students) or to put an employee on immediate leave or to reassign their duties, prior to the commencement or conclusion of a Resolution Process or Title IX Grievance Process 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 a student on an emergency suspension will be made by the Dean of Students Office, in consultation with the Office of Equal Opportunity (OEO). 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.

2. 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. 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, in consultation with OEO, 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 interim 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.

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 sexual violence have certain rights under this Policy and applicable laws. All individuals have the right to:

1. Have disclosures of discrimination, harassment, and sexual violence, including sexual assault, dating violence, domestic violence, stalking and sexual exploitation, 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.

Appendix A - Selected Massachusetts State Definitions⁴

- **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.

⁴ These are Massachusetts' definitions for criminal conduct which may differ from the definitions in this Policy. Definitions are current as of July 2019. 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.