



TITLE IX GRIEVANCE PROCESS

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The Title IX Grievance Process (Process) is applicable to student or employee (staff or faculty) conduct that meets the jurisdictional requirements noted herein. If the Formal Complaint contains one or more allegations of Sex-Based Harassment under the Policy (Section IV, C), the Director of the Office of Equal Opportunity¹ (or their designee) (Director) will Initiate this Process.

¹ The Director of the Office of Equal Opportunity serves as the Title IX Coordinator for Brandeis University (ooo@brandeis.edu or 781-736-4806). 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

This Process is effective August 1, 2024, and applies to conduct occurring on or after that date. A prior version of this Process is applicable to conduct from August 2021, through July 31, 2024. For conduct that occurred prior to August 2021, please see the version of this Process that was in effect at the time to conduct is alleged to have occurred. Brandeis reserves the right to make changes to this Process as necessary. This Process 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](#).² 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 form, based on the effective date of the regulations in question.

I. Jurisdictional Requirements

Only allegations of conduct constituting Sex-Based Harassment that occurred on or after August 1, 2024, fall within the jurisdictional requirements of the Formal Complaint Process, and have completed the Investigative Procedure in the Formal Complaint Process will be subject to this Title IX Grievance Process (Process) for final resolution.³ Sex-Based Harassment is defined in the Policy and includes Sex-Based Hostile Environment Harassment, Quid Pro Quo Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Sexual Exploitation. Note that allegations of Harassment Based on a Protected Category Other than Sex and/or Discrimination Based on a Protected Category (including sex) are not subject to this Process but instead are subject to the Formal Resolution Process and its jurisdictional requirements.

II. Prior to the Grievance Process Hearing

The Title IX Grievance Process (Process) involves a live Grievance Process Hearing (Hearing) for the resolution of a Formal Complaint. Once a determination has been made that the alleged conduct in the Formal Complaint meets the requirements for the Process, preparations for the Hearing will begin.

A. Timing

Once a matter is deemed eligible for the Process, the Hearing will be scheduled in a reasonably prompt timeframe. The University strives to complete the Title IX Process within 60 business days of its initiation. If additional time is required, OEO will notify the parties that additional time is needed and will explain the reason for the delay. If the Process is started near or after the end of an academic term or the Hearing cannot be completed prior to the end of term, the Hearing will be held as soon as practical. This will typically be immediately after the end of the term, during a break, or over the summer, depending on the availability of the parties, witnesses, and University officials. If the Respondent is scheduled to graduate prior to the resolution of a Formal Complaint under this

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.

² Please contact the Office of Equal Opportunity at 781.736.4806; OEO@brandeis.edu if you need assistance locating a prior version of this Process.

³ The parties to a Formal Complaint are informed whether the Formal Complaint will proceed through the Title IX Grievance process during the Process Determination stage of the Formal Complaint Process.

Process, a hold may be placed on their graduation and/or official transcripts until the complaint is fully resolved (including any appeal). All timeframes in the Formal Complaint Process can be extended at the discretion of the Director of the Office of Equal Opportunity or their designee. The decision to extend timeframes for parties will be made on a case-by-case basis for good cause with written notice to the parties, including the reason for the delay.

B. Hearing Coordinator

The Office of Equal Opportunity (OEO) will act as the coordinator for the Hearing under the Process. OEO will be responsible for scheduling the Hearing, providing notifications to parties and witnesses, distributing any information from the Investigative Procedure, recording the Hearing, and any other administrative task necessary for the implementation of this Process. The Director of OEO (or their designee) (Director) will attend all meetings, conferences, and hearings in this Process.

C. Decision-Making Panel

The decision of whether the Respondent is *Responsible* or *Not Responsible* for violating the Policy Against Discrimination, Harassment & Sexual Violence (Policy) based on the conduct alleged in the Formal Complaint will be made by the Decision-Making Panel. The Decision-Making Panel will consist of three individuals who have been trained on discrimination, harassment, and sexual violence, how to conduct a hearing, issues of relevance, impartiality, and any technology that will be used during the Hearing. The three panel members may be University employees (staff or faculty) or trained professionals from outside of the University, or a combination thereof. The members of the Decision-Making Panel will be selected at the sole discretion of the Director, consistent with this paragraph. The names of the members of the Decision-Making Panel will be communicated to the Complainant and Respondent prior to the Pre-Hearing Conference. If either the Complainant or Respondent believes there is a possible conflict of interest with any of the members of the Decision-Making Panel, it must be communicated to the Director within three (3) business days after notice. The Director then has the discretion to assign a different member to that panel. Once three (3) business days have passed since the Complainant/Respondent was notified of the names of the members of the Decision-Making Panel, the Panel will become final. One member of the Decision-Making Panel will be named as the Hearing Chair, at the sole discretion of the Director. Throughout this Process, the Chair will have the ability to consult with the Director as necessary.

D. Notice of Grievance Process Hearing

After the Investigative Procedure has closed and a determination has been made that this Process applies to the Formal Complaint, the parties will receive a Notice of Hearing from the Director. This Notice will be provided at least ten (10) business days prior to the proposed date for the Hearing. The Notice will include the names of the members of the Decision-Making Panel, will identify the Hearing Chair, and will propose a date for the Pre-Hearing Conference and Hearing. With the Notice, the parties will again be given access to the Final Investigative Report, supporting documentation, and the gathered information, all of which was previously shared with the parties in the Investigative Procedure, for review and written response.

E. Support Person/Advisor

To fully participate in the Hearing, the Respondent and Complainant may each have a support person/advisor. During the Hearing, the parties each have the right to submit questions to the Hearing Chair that are directed to another party or witnesses regarding their statements. However, a party may not question another party or witness directly during the Hearing. Instead, all questions from a party must be asked by Decision-Makers. If a party does not have a support person/advisor, the University will offer to provide the party with a support person/advisor, of the University's choice, at no expense to the party. The University-provided support person/advisor may be a staff or faculty member who is trained to act in this capacity or may be someone from outside the University. The Director, at their sole discretion, will make the decision regarding who the University-assigned support person/advisor will be. The expectation is that any support person/advisor will be reasonably available for all meetings, the Pre-Hearing Conference, and the Hearing, and will not cause a delay in the Process based on their lack of availability.

At least two (2) business days prior to any meeting in the Process, the Pre-Hearing Conference, or the Hearing, a Complainant/Respondent must provide the Director with the identity and contact information (e-mail and telephone) of any individual who will be serving as their support person and/or advisor. A party is not required to use the same support person/advisor they used in the Investigative Procedure so long as they provide the Director with timely notice of the change.

A support person/advisor does not make any presentations or represent the party during the Process. Their primary role in the Process is to provide support to the party. The support person/advisor may not speak on behalf of the party during the Process except when they are allowed to submit questions they would like asked of the other party or witnesses, subject to the Hearing Rules (as discussed below). If at any point a support person/advisor becomes disruptive or is otherwise unable to abide by the requirements of the support person/advisor role or the Hearing Rules, they will be asked to leave the Process.

F. Disability Accommodations

A party or witness (student or employee) who has a disability that may require an accommodation in the Process should work with the appropriate office to determine what reasonable accommodations may be available. Students should work with Student Accessibility Support (SAS) (781-736-3470 or access@brandeis.edu) to request an accommodation for the Process. Employees (staff and faculty) needing accommodations during the Processes should work with Human Resources (HR) (781-736-4474 or humanresources@brandeis.edu). All approved disability accommodations must be communicated to the Director (781-736-4806 or oco@brandeis.edu) in writing at least two (2) business days in advance of any meetings, conference, or hearing where the accommodations will be needed. Only accommodations approved by SAS or HR will be implemented during the Process.

G. Findings of Relevance

Only information that is deemed relevant by the Decision-Making Panel will be admissible in the Grievance Process Hearing. The final decision regarding whether information is relevant to a Formal Complaint will be made by the Hearing Chair, at their discretion. The Chair may consult with the other members of the Decision-Making Panel and the Director prior to making a decision

as to relevance. Questions are relevant when they seek information that may aid in showing whether the alleged policy violations in the operative Formal Complaint occurred, and information is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred. The Chair will document and share their rationale for any finding of non-relevance throughout the Process.

The following information is not considered relevant during the Process or Hearing (except as noted):

1. Information about incidents not directly related to alleged conduct in the Formal Complaint, unless it may show a pattern of behavior, as determined by the Chair.
2. Information that is protected under a privilege as recognized by Federal or State law or information provided to a Confidential Resource under the Policy, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
3. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in the recipient's grievance procedures;
4. Information that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

H. Witnesses

Prior to the Pre-Hearing Conference, the names of those individuals that the Decision-Making Panel plans to invite to appear at the Hearing will be shared with the parties. That list will include all the parties and the names of the witnesses the Panel considers relevant to the resolution of the pending Formal Complaint. If any party has an objection to the inclusion or exclusion of any witness at the Hearing, they should present that objection in writing at or prior to the Pre-Hearing Conference. Within that same timeframe, the parties must also provide in writing the names of any additional witnesses they would like to have appear at the Hearing. These submissions will be addressed by the Chair during the Pre-Hearing Conference. Please note that only individuals who were interviewed as part of the Investigative Procedure can appear at the Hearing. A party cannot present new witnesses or information that was previously available for the first time at the Hearing (see below regarding New Information at Hearing).

I. Pre-Hearing Conference

Prior to the Hearing, the Hearing Chair will schedule a time to meet with the Respondent and Complainant separately, with their respective support person/advisor, for a Pre-Hearing Conference. This conference may be conducted in person or virtually, at the discretion of the Chair. During this conference, the Chair will review with the parties the information that will be reviewed at the Hearing, which generally will be the information contained in the Final Investigative Report. The Chair will also review any submissions by the parties regarding witnesses, as discussed above. At this time, a party should share with the Chair any concerns they have about whether certain information is relevant or not relevant, and the information they believe should be included or excluded from the Hearing. The Chair has the option to confer with the other Decision-Making Panel members and the Director before making a decision as to relevance. The final decision regarding relevance will be made by the Chair, at their discretion before or during the Hearing.

If there is additional information a party wishes to include at the Hearing, beyond what has been included in the Final Investigative Report, the party must present that information to the Chair for consideration during the Pre-Hearing Conference. However, as discussed below, this information will be limited only to the information gathered during the Investigative Procedure. The Chair will make a finding as to whether the information raised by the party is relevant to the resolution of the Formal Complaint. The Chair has the discretion to confer with the other Decision-Making Panel members and the Director, but the final decision regarding relevance will be made by the Chair, at their discretion. The Chair also has the discretion to delay the decision on relevance until the Hearing. During the Hearing, a party may ask the Chair to reconsider their finding regarding the relevance of certain information based on the information offered at the Hearing. Again, the final decision regarding relevance at the Hearing will be made by the Chair, at their discretion. The Chair will document and share their rationale for their finding of non-relevance during the Pre-Hearing Conference and/or at the Hearing.

During the Pre-Hearing Conference, the parties may agree (through the Chair), that the statements of a witness can be adequately addressed through the information in the Investigative Report, in the gathered information, or through questioning the Investigator at the Hearing. In that situation, the witness would not need to appear for the Hearing, but the Decision-Making Panel would still be able to consider their statements when making their finding.

During the Pre-Hearing Conference, the parties will have the option to submit questions they would like to pose to a party or witness during the Hearing (See [Questions by Party at the Hearing](#) below). The Chair will then make a finding as to the relevance of any submitted questions and will approve questions in advance of the Hearing that the Chair will pose to a party or witness. If a party chooses not to submit questions in advance of the Hearing or has additional questions that arise during the Hearing beyond those presented in the Pre-Hearing Conference, the Chair will make a finding on the relevance of each of those questions at the Hearing pursuant to Process before posing them to the party or witness.

III. Grievance Process Hearing

The Title IX Grievance Process involves a live hearing which includes a review of the Final Investigative Report and any supporting materials, and questioning of the parties, and any witnesses.

All relevant information presented in the Hearing will be considered by the Panel in determining if the Respondent is *Responsible* or *Not Responsible* for violating the Policy Against Discrimination, Harassment & Sexual Violence (Policy) based on the conduct alleged in the Formal Complaint. The determination regarding what is relevant to the resolution of the Formal Complaint will be made by the Hearing Chair, at their discretion. Any questions regarding the Process during the Hearing will be addressed by the Hearing Chair or the Director of the Office of Equal Opportunity (or their designee) (Director).

A. Conducted Over Technology

The expectation is that the Hearing will be conducted over video conferencing technology (Zoom, Google Meet, etc.). Every participant in the Hearing is expected to participate from a private location, with no one else present who can hear or see the Hearing. The only exception is that either party may participate in the Hearing with their support person/advisor present in the same location. The Decision-Making Panel also will have the option to conduct the Hearing with all the Panel members in the same location. Any witnesses participating in the Hearing can either appear on their own (in a private location with no one else able to hear or see the Hearing) or in the same location as the Decision-Making Panel. All participants in the Hearing must identify themselves on the recording and appear at the Hearing over video (barring any technical complications). The presence of anyone not authorized to participate in the Hearing or who has not identified themselves at the Hearing is expressly prohibited at all times and would be in violation of University policy. If any of the hearing participants do not have access to a suitably private location, the Director can make arrangements to provide access to a private location on campus for the hearing, as appropriate. As discussed below, all participants in the Hearing are expressly prohibited from recording any meetings in the Process, including the Pre-Hearing Conference and the Hearing. A party has the option to request, in writing, that the Hearing be conducted in person. A Hearing will be conducted in person at the discretion of the Director and only if both parties agree to an in-person hearing.

B. New Information

The expectation is that all of the information relevant to the Formal Complaint and that a party intends to present at the Hearing will have been shared and considered in the Investigative Procedure. The parties will have been given ample opportunity to share all available information with the Investigator during the Investigation. The Hearing Chair has the discretion to exclude from the Hearing any information that was available, but not previously shared in the Investigative Procedure. The Hearing Chair also has the discretion to confer with the Investigator and/or Director about the scope of the Investigative Procedure and whether the information was available during the Investigative Procedure. Under rare circumstances, and typically when it appears that the information may not have been available earlier, the Hearing Chair has the discretion to either allow the information at the Hearing or to re-open the Investigative Procedure so that the Investigator may fully review and consider the new information. If the Investigation is re-opened, the Investigator has the option, at their discretion, to revise the Investigative Report. If the Investigative Report is revised, the Chair will have the discretion to offer the parties the opportunity to review and submit comment on the new report prior to the Hearing.

C. Access to Report and Information from Investigative Procedure

At least ten (10) business days before the Hearing, the parties will again be given access to the Investigative Report, supporting documentation and the gathered information previously shared with the parties during the Investigative Procedure. That same information will be shared with the Decision-Making Panel for review prior to the Hearing.

D. Presence at Hearing

All parties and witnesses will be given notice of the Hearing and an opportunity to participate in that Hearing. All parties and witnesses in the Hearing must agree to submit to questioning by the Decision-Making Panel. If a party or witness does not appear at the Hearing or does not agree to be questioned by the Panel, the Hearing may be held in their absence. Any statements given by a party or witness prior to the Hearing, who then does not participate in questioning at the Hearing, may be considered by the Decision-Making Panel at its discretion. During the Pre-Hearing Conference, the parties can agree to the use of statements of a witness or party without questioning them at the Hearing. The Decision-Making Panel may choose to place less or no weight upon statements by a party or witness who refuses to appear and/or respond to questions deemed relevant and not impermissible. However, the Decision-Making Panel must not draw an inference about whether Sex-Based Harassment occurred based solely on a party's or witness's refusal to appear and/or respond to such questions. If the statements of a party who does not participate in questioning at the Hearing are the subject of the alleged conduct in the Formal Complaint (for example – verbal harassment), then those statements would still be included at the Hearing and can be considered by the Decision-Making Panel when making their finding.

E. Recording

The Hearing will be recorded, either as an audio or video recording (or both) at the discretion of the Director. OEO will be responsible for recording the Hearing. Any audio or video recording of the Hearing by anyone other than OEO (party, witness, support person/advisor, or other individual) is expressly prohibited at all times during the Pre-Hearing Conference and Hearing, and would be a violation of University policy. The Pre-Hearing Conference and the deliberations of the Decision-Making Panel will not be recorded. After the Hearing, OEO will be responsible for maintaining the recording in accordance with the maintenance of records provisions of the Policy. A party seeking access to the recording after the Hearing or a transcript of the Hearing (if created at OEO's discretion) should submit a written request to OEO.

F. Questions by Decision-Making Panel

The Decision-Making Panel will have the first opportunity to question the Investigator and any party or witness regarding the information they deem relevant to the Formal Complaint from the Final Investigative Report and the information gathered through the Investigative Procedure.

G. Investigator

The Investigator will be present at the Hearing as the first witness to present the Final Investigative Report and to answer any questions the Decision-Making Panel may have regarding the information

gathered in the course of the Investigative Procedure. The Investigator will not provide a recommended finding from their Investigation or make any findings of fact at the Hearing, as those are findings to be made by the Decision-Making Panel at the conclusion of the Hearing.

H. Questions Submitted by a Party at the Hearing

The parties each have the right to submit questions, themselves or through their support person/advisor, to the Chair and request that the questions be posed to the other party(s) and any witnesses who appear at the Hearing. A party has the option to submit questions in advance at the Pre-Hearing Conference for a finding of relevance by the Chair. Any pre-approved questions will be asked by the Chair at the Hearing in compliance with the Hearing Rules. If a party has questions that have not been pre-approved by the Chair or if a party has additional questions at the Hearing beyond those that have been pre-approved, a finding of relevance must be made for each question by the Chair before the Chair asks the question during the Hearing.

For questions that have not been pre-approved by the Chair during the Pre-Hearing Conference, a party or their support person/advisor will have to indicate to the Chair that they have a question for a party or witness. The Chair will then have the option to remove the party or witness to be questioned from the Hearing at their discretion. The party or their support person/advisor will then present the question to the Chair who will make a finding as to whether the proposed question is relevant to the Formal Complaint. Questions that are repetitive of information already presented to the Panel or that are unclear or harassing will be deemed irrelevant. The Chair will note on the recording their rationale for their finding of non-relevance for any specific question and will give a party an opportunity to clarify or revise a question that the decisionmaker has determined is unclear or harassing.

If a question is deemed to be relevant by the Chair, the party or witness will be brought back into the Hearing, (if they were removed) and the Chair will ask the approved question. This process will be repeated for each question that has not been pre-approved but that a party wishes to ask of a party or witness during the Hearing. The questioning process can be expedited by a party submitting questions to the Chair for pre-approval during the Pre-Hearing Conference or prior to the Hearing. The Chair and the other Decision-Making Panelists are the only individuals permitted to verbally ask questions during the Hearing.

I. Hearing Rules

The Hearing is meant to be a forum for presenting relevant, factual information to the Decision-Making Panel that will be helpful in making a finding of whether the Respondent is *Responsible* or *Not Responsible* for violating the Policy. The Hearing is an administrative proceeding and is not meant to replicate a courtroom environment. As such, there is no room for what might be considered “courtroom theatrics” in the Hearing. The expectation is that all participants in the Hearing, including the parties and their support person/advisor, will remain seated during the Hearing and will maintain a respectful and civilized tone towards all participants in the Process, including the Panel, Director, other parties, and witnesses. There is no place in the Hearing for argument, badgering, abusive language, raised voices, or disrespectful treatment of any Hearing participant. There will be no opening or closing statements by the parties in the Hearing. The Chair will be responsible for letting a party, support person, advisor, or witness know when it is their turn to speak during the Hearing. The parties and their support person and advisor are expected not to

Speak or comment unless they are told by the Chair that it is their turn to speak during the Hearing. Any participant, including parties and their support person and/or advisor, who cannot comport themselves in a respectful manner and follow these Hearing Rules throughout the Hearing, as determined by the Chair or the Director, at their discretion, may be removed from the Hearing. If a support person/advisor is removed from the Hearing for violating these terms, the Hearing will be suspended until the party in question can be provided a new support person/advisor.

IV. Panel Finding

After the Hearing has been concluded, the Decision-Making Panel (Panel) will deliberate and review the information submitted through the Formal Complaint Process and the Hearing to make a finding as to whether the Respondent is responsible for violating the Policy Against Discrimination, Harassment & Sexual Violence (Policy). The decision of the Panel will be made based on the *preponderance of the evidence* standard -- that is, whether the facts presented in the Formal Complaint Process and Hearing support a finding that it is more likely than not that the Policy was violated. The Decision-Making Panel will base the findings solely on the information presented through the Formal Complaint Process and the Hearing, pursuant to the Process. There is a presumption that the Respondent is not responsible for the alleged conduct until a determination has been made at the conclusion of the Hearing based on the information presented during the Process. The finding of the Panel will be made by a majority. The Panel will issue their written findings on the Formal Complaint to the Director of the Office of Equal Opportunity (or their designee) (Director). The written findings by the Panel will outline any factual determinations made, any credibility assessments from the Hearing, and the rationale used to reach the finding.

A. Student Respondent Notice of Outcome

If a student Respondent is found *Not Responsible* by the Panel for violating the Policy, the Complainant and Respondent will both be notified by the Office of Equal Opportunity (OEO) and the Dean of Students Office (DOSO) reasonably simultaneously in writing of the outcome, the option to appeal, an explanation of when that outcome becomes final, and the findings from the Decision-Making Panel.⁴ The Notice of Outcome will be issued to the parties within five (5) business days after the findings have been made and finalized by the Decision-Making Panel, barring exceptional circumstances. At this time, the Director will again give the parties and their support persons and/or advisors access to the Final Investigative Report and gathered information for five (5) business days.

If a student Respondent is found *Responsible* for a violation of the Policy, the matter will be referred to the Dean of Students Office (DOSO) who will assign the appropriate sanctions or remedies. The determination regarding sanctions will include a consideration of any other disciplinary history the Respondent may have with the University as outlined in the [Rights & Responsibilities Handbook](#), Section 20. Sanctions for a *Responsible* finding may include, but are not limited to, denial of privileges, disciplinary warning, disciplinary probation, educational sanctions, suspension, dismissal, and any other sanction noted in the Rights and Responsibilities handbook. Both the Complainant and Respondent will be reasonably simultaneously notified in writing of the Notice of Outcome which includes the assigned sanction, the option to appeal, an explanation of when that outcome

⁴ This information may also be conveyed via Zoom or in person immediately before or while it is provided via writing.

becomes final, and the findings from the Decision-Making Panel. The Notice of Outcome will be issued to the parties by DOSO and OEO within seven (7) business days after the findings have been made and finalized by the Decision-Making Panel. At this time, the Director will again give the parties and their support persons and/or advisors access to the Final Investigative Report and gathered information for five (5) business days.

B. Employee Respondent Notice of Outcome

If an employee Respondent is found *Not Responsible* for violating the Policy, the Complainant and Respondent will be notified by the Office of Equal Opportunity in writing of the outcome, the option to appeal, and an explanation of when that outcome becomes final. The written outcome will include the findings from the Decision-Making Panel. The Notice of Outcome will be issued to the parties by Human Resources within seven (7) business days after the findings have been made by the Decision-Making Panel. At this time, the Director will again give the parties and their support persons and/or advisors access to the Final Investigative Report and gathered information for five (5) business days.

If an employee Respondent is found *Responsible* for a violation of the Policy, the matter will be referred to Human Resources and an employee in the Respondent's supervisory chain (or their designee), who will decide the appropriate sanctions or remedies based on that finding. The determination regarding sanctions will include a consideration of any other disciplinary history the Respondent may have with the University. Sanctions for a *Responsible* finding may include, but are not limited to, warnings (verbal or written), censures, training or other educational responses, final warnings, performance improvement plans, reassignment, demotions, suspensions, and termination. The parties will be notified by Human Resources and their supervisor, academic dean, or the Provost (or their designee), in writing, of the Notice of Outcome which includes the assigned sanction, the option to appeal, an explanation of when that outcome becomes final and the findings from the Decision-Making Panel. The Notice of Outcome will be issued to the parties within seven (7) business days after the findings have been made by the Decision-Making Panel. At this time, the Director will again give the parties and their support persons and/or advisors access to the Final Investigative Report and gathered information for seven (7) business days.

For employees, the University reserves the right to issue disciplinary action with respect to conduct that it deems inappropriate regardless of whether it rises to the level of a violation of the Policy or the law.

V. Appeal

Both the Complainant and Respondent (student, staff, or faculty) are entitled to one appeal of the outcome to the Formal Complaint. Any appeal must be submitted in writing to OEO (o eo@brandeis.edu) within seven (7) business days of the receipt of the written Notice of Outcome. The individual who files an appeal is known as the *appellant*. The appellant must submit an Appeal Form with their appeal which is available from OEO. If an appeal is not received within seven (7) business days, the outcome will be considered final, and the Title IX Grievance Process will be closed. The University strives to complete the Appeals within 30 business days of their initiation. If

additional time is required, OEO will notify the parties that additional time is needed and will explain the reason for the delay.

An appeal can only be submitted by the Complainant or Respondent in writing. Appeals submitted by third parties (e.g., friends, family, attorneys) may not be considered.

There are only three grounds on which an appeal can be filed – procedural error, the availability of new information, and conflict of interest/bias. The written appeal must specifically state under which of these three grounds the appeal is being filed and how the requirements for that basis of appeal (noted below) are met by the appeal. The appeal is not a new fact-finding process. Although a Complainant/Respondent may disagree with the finding or the sanction, that alone is not a basis for appeal. Factual disputes are not a basis for appeal. Instead, the appeal must set forth under which of the three grounds the appeal is filed. If the appeal will be heard, the non-appealing party will be given a copy of the appeal and will have an opportunity to respond to the assertions made by the appellant, in writing, within seven (7) business days after receipt. The parties and their support persons and/or advisors will maintain access to the Final Investigative Report and gathered information during this time.

The three grounds for appeal are:

1. Procedural Error: The appellant alleges that (i) the procedural requirements of the Formal Complaint Process and/or the Hearing Process were not followed, *and* (ii) that deviation from the process changed the outcome of the Formal Complaint against the appellant.
2. Availability of New Information: The appellant alleges that, subsequent to the issuing of the outcome, new information became available which would have changed the outcome of the Formal Complaint. The appellant must: (i) present the new information; (ii) show why it was not reasonably available prior to the outcome; *and* (iii) show that the new information would change the outcome of the complaint. If new information is presented, the University Appeal Board (UAB) has the option to ask the Investigator to reopen the Investigation regarding that information.
3. Conflict of Interest or Bias: The appellant alleges that the Director, Investigator, or a member of the Decision-Making Panel had a conflict of interest or bias for or against complainants or respondents generally or against the specific Complainant or Respondent to the Formal Complaint. The appellant must (i) specifically identify who is alleged to have the conflict of interest or bias; (ii) present specific information regarding the nature of the conflict of interest or bias for each individual identified; *and* (iii) show how the conflict of interest or bias changed the outcome of the Formal Complaint against the appellant.

Appeals that are timely and state proper grounds for appeal, as determined by the Director (or their designee), will be decided by a University Appeals Board (UAB) of three people. The UAB will consist of three staff or faculty who have been trained in the resolution of issues of discrimination, harassment, and sexual violence. The members of the UAB will include different individuals from those who served as the Decision-Making Panel. The three UAB panel members will be chosen at the sole discretion of the Director (or their designee), who will communicate those names to the

Complainant and Respondent. If there is an allegation of bias against the Director, they will recuse themselves from the appeal process and the UAB panel members will be chosen by the Vice President for Diversity, Equity, and Inclusion (Vice-President). If either the Complainant or Respondent believes there is a possible conflict of interest with any of the UAB members, it must be communicated to the Director or the Vice-President within two (2) business days. The Director or the Vice-President then has the discretion to assign a different member to the UAB. Once the appeal has been submitted to the UAB for consideration, there will be no further opportunity to raise potential conflicts of interest.

In reviewing an appeal, the UAB will be given the Final Investigative Report and any supporting documentation, the written Notice of Outcome, the appeal submission and any response, and the results of any additional investigation. The UAB may also be given access to the recording of the Hearing if the UAB decides such access is necessary to make a finding on the appeal. The UAB will make its finding based on their review of these documents and application of the preponderance of evidence standard. The UAB will also receive a written recommendation from the Director, prepared in consultation with the Office of the General Counsel, regarding whether the appeal states the proper grounds for appeal. Appeals that do not state a proper ground for appeal as determined by the UAB shall be dismissed. The UAB may also submit questions to or request information from the Investigator or the parties if needed to make their determination on the appeal.

The UAB has the option to *Dismiss* the appeal as: (1) untimely, (2) failing to state a proper ground for appeal, *or* (3) by finding that the requirements for the appeal grounds chosen have not been met. The UAB also has the option to *Grant* the appeal.

If the UAB grants the appeal for a student appellant, the matter will be referred to the Dean of Students Office who will modify the final outcome on the Formal Complaint based on the findings of the UAB. If the UAB grants the appeal for an employee appellant, the matter will be referred to the Vice-President of Human Resources or their designee who, in consultation with the Provost (or their designee), as appropriate, will modify the final outcome on the Formal Complaint.

The parties will be reasonably simultaneously notified in writing of the Outcome of Appeal. For students, the notification will come from the Dean of Students Office. For employees, the notification will come from Human Resources. Certain employees may have additional appeal rights outside the 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