

## Title IX Harassment Policy

Note: This policy was adopted by Boston College in compliance with the regulations promulgated under Title IX, effective August 14, 2020, and applies only to conduct occurring on or after this date. In the event of any changes or legal developments affecting these regulations, the University reserves the right to amend, suspend, or revoke this policy. In such event, the University will notify the Boston College community.

### I. Introduction

Boston College strives to comply with all federal and state civil rights laws barring discrimination, including Title IX of the Education Amendments of 1972 ("Title IX"). The University is committed not only to compliance with these mandates, but to promoting a culture and values that these civil rights laws envision.

Title IX prohibits any person in the United States from being discriminated against on the basis of sex in educational programs and activities. The University has developed policies and procedures that prohibit such sex discrimination in all of its forms, including this Title IX Harassment Policy, which addresses harassment in compliance with the requirements of regulations promulgated under Title IX (34 CFR part 106). The University also maintains other policies that prohibit misconduct and discriminatory harassment, including the [Discriminatory Harassment Policy](#), the [Student Code of Conduct](#), and the [Student Sexual Misconduct Policy](#). To the extent that alleged misconduct does not meet the definitions or scope of harassment covered by this Title IX Harassment Policy, or if such misconduct is discovered in the course of investigating Title IX Harassment, the University retains full authority to investigate and adjudicate that conduct under the University's other policies, as appropriate.

### II. Title IX Harassment and Scope of this Policy

#### a. Scope

Title IX prohibits Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and Stalking, all as defined below in accordance with the regulations promulgated under Title IX, if that

and circumstances) would also violate other University policies, the University may elect to address all the conduct under the procedures set forth in this policy or may elect to address that conduct under the other applicable policy or policies, provided, however, the University may not discipline a student or employee for conduct that may constitute Title IX Harassment before that conduct is addressed under the grievance procedures or informal resolution process described in this policy.

b. Definitions

For the purposes of this policy, the following terms have the meanings given to them below. Some of these terms may have different meanings in other contexts, such as criminal statutes and other University policies. Conduct may fit within more than one definition below and may also implicate other University policies.

TITLE IX HARASSMENT includes, as specifically defined in 34 CFR §106.30

Sexual Harassment, which is conduct on the basis of sex that involves one or more of the following:

- A University employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct (also called quid pro quo harassment); or
- Unwelcome conduct that a reasonable person would perceive as so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Program or Activity.

Sexual Assault, which is any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent and including, without limitation, fondling and rape.

Dating Violence, which is violence committed by a person:

- who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship;
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Other Definitions:

**CONSENT** is the clear and voluntary agreement to engage in specific acts of sexual contact or activity, communicated through mutually understandable words or actions, as defined more fully [Student Sexual Misconduct Policy](#). For the purpose of this policy, Consent and the related terms Incapacitation, Coercion, and Force, shall all have the meanings given to them [Student Sexual Misconduct Policy](#) whether or not the parties involved are students.

**COMPLAINANT** means an individual who has reported being or is alleged to be the victim of conduct that could constitute Title IX Harassment. Complainant must be participating in or attempting to participate (such as applicants for admission and athletic recruits) in a Program or Activity of the University at the time a Formal Complaint is filed.

**RESPONDENT** means an individual who has been reported to be the perpetrator of conduct that could constitute Title IX Harassment.

**PROGRAM OR ACTIVITY** broadly includes all operations of Boston College in the United States, including: (a) any academic, extracurricular, research, employment, or other program or activity operated by the University; (b) locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the alleged Title IX Harassment occurred; (c) any building owned by the University; (d) any building owned or controlled by a student organization that is officially recognized by the University; and (e) activities occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University.

III. Retaliation







Any mandatory dismissal of a Formal Complaint will not preclude the University from taking action to address the alleged conduct under any other applicable University policy, including, without limitation, the [Student Code of Conduct](#), the [Student Sexual Misconduct Policy](#), or the [Discriminatory Harassment Policy](#).

In addition, the University may dismiss a Formal Complaint, or specific allegations included in a Formal Complaint, if at any time during the investigation or hearing:

- the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- the Respondent is no longer enrolled or employed by Boston College; or
- specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or any allegations therein.

When a Respondent is no longer affiliated with the University, the University's ability to gather evidence and enforce any applicable sanctions will be limited, and accordingly, the University may, in its sole discretion, dismiss the Formal Complaint under these circumstances. Upon reaching a decision that all or part of a Formal Complaint will be dismissed, the University will promptly and simultaneously send a

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- Agreement to abide by University Stay Away Orders
- Agreement to participate in educational or training programs
- Referral to supportive services or resources
- Submission and/or receipt of an impact statement, and
- Other, as determined by the University

When the Respondent is a staff or faculty member (and the Complainant is not a student), the Informal Resolution Process may involve one or more of the following:

- Direct or indirect dialogue between parties, facilitated by a neutral mediator;
- Agreement to employment remedies including but not limited to position adjustments, suspensions, or dismissal
- Agreement to abide by nocontact directives
- Agreement to participate in educational or training programs





Complainant and Respondent Although the University cannot compel the Complainant or Respondent to attend the live hearing, the University encourages both the parties to attend. The University may proceed with the hearing in the absence of a party and may reach a determination of responsibility in the party's absence.

In the event that a party chooses not to attend, a party's Advisor may nonetheless appear and conduct cross-examination, or the University will provide an Advisor for this purpose if a party's Advisor does not appear.

Witnesses Witnesses may not be required to participate in the live hearing, but the University strongly encourages their participation.

## ii. Hearing Process

In-Person or Virtual Hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants to see and hear each other. At any party's request, cross-examination may occur with the parties in separate rooms using technology that enables participants to see and hear the person answering questions.

Record of Hearing

repetitive of questions already asked, including questions asked by the Decision Maker, may fairly be deemed not relevant and the Decision Maker may exclude them.

### iii. Hearing Rules

**Expectations of Participants** All hearing participants must conduct themselves appropriately and respectfully towards all other participants, and may not act or ask questions in a way that may be considered by a reasonable person to be abusive, intimidating, harassing, or disrespectful. The Decision Maker may address any misbehavior, including by adjourning the hearing and excluding the offending person, who may face additional sanctions under other University policies.

**New Evidence** No new evidence, including new witness testimony, may be presented at the hearing, unless the evidence or testimony was not reasonably available to the party during the investigation. In that case, the new evidence must be brought to the attention of the Decision Maker prior to the hearing. The Decision Maker has the discretion to either stay the hearing to provide the other party with an opportunity to respond to the new evidence, or ask the Investigator to open the investigation for the limited purpose of addressing the new evidence, which each party shall have the opportunity to review as described in this policy.

**Other.** The University may establish additional or more specific rules. 7 (k)(o) - (n)-0 )10.7 (e)-3 (s)-139.6 >>BDC /TT3



- The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The University may, in its sole discretion, defer sanctions while an appeal is being considered.

If a party files an appeal, the University will as soon as practicable notify the other party in writing of the appeal and implement the appeals procedures equally for both parties.

An Appeals Officer will review the appeal. The Appeals Officer will be a trained individual free from conflicts of interest or bias, and will not be a Title IX Coordinator, Investigator, or Decision Maker who reached the determination of responsibility or dismissal. The Appeals Officer will review the appeal to determine if it meets the required grounds. In so doing, the Appeals Officer may consult with the Decision Maker, Investigator(s), and other individuals involved in the adjudication, and may review evidence and any reports. The Appeals Officer will provide both parties reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The Appeals Officer will endeavor to make a decision on the appeal within ten (10) business days of receiving the appeal. If the Appeals Officer requires additional time to reach a decision, the parties will be notified.

If the Appeals Officer determines that the party who filed the appeal has adequately established a permissible basis for the appeal, the Appeals Officer, acting in the Appeals Officer's sole discretion, will determine the appropriate next steps. For example, with respect to the dismissal of a Formal Complaint or any allegations, the Appeals Officer may determine that the complaint or allegations continue through the formal grievance process. With respect to a determination of responsibility, the Appeals Officer may require the case be heard in whole or in part by the original or a new Decision Maker or Investigator, may review the matter and determine that an adjustment in the findings or sanctions is appropriate, or may take any other action that the Appeals Officer reasonably deems appropriate.

The Appeals Officer will prepare a written decision describing the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The decision of the Appeals Officer is final.

Approved: William P. Leahy, S.J  
 Date: August 14, 2020  
 August 12, 2021 rev (to update for M.G.L. ch. 6 section 168D and case law)  
 September 12, 2022 rev