



Student Sexual Misconduct Policy 2022-2023

BOSTON COLLEGE STUDENT SEXUAL MISCONDUCT: POLICY INDEX

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I. INTRODUCTION AND SCOPE OF THE POLICY

Boston College seeks to foster a campus environment that supports its educational mission and is free from exploitation and intimidation, as well as discrimination based upon gender. Sexual misconduct of any kind, including sexual harassment, sexual violence, intimate partner violence, and stalking, is antithetical to the mission of Boston College and the values it espouses and will be responded to accordingly.

The University strives to comply with all civil rights laws, including, without limitation Title IX of the Education Amendments of 1972 ("Title IX"), and has established a policy to address sexual harassment in accordance with regulations promulgated under Title IX.

This policy addresses the University's response to student sexual misconduct to the extent the misconduct does not fall within the scope of Title IX as described in the University's [Title IX Harassment Policy](#). In addition, this policy provides information regarding the University's education, prevention, and response efforts related to sexual misconduct by students, as well as on- and off-campus resources available to students, whether or not the misconduct falls within the definitions of prohibited conduct under this policy or the Title IX Harassment Policy.

The University strongly encourages any student who has been harassed or subjected to sexual misconduct to seek prompt assistance from the resources described in this policy.

A printed copy of this policy may be requested through the Office of the Dean of Students, 448 Maloney Hall, 140 Commonwealth Avenue Chestnut Hill, MA 02467 or by calling 617-552-3470.

II.

III. PROHIBITED CONDUCT

The University prohibits all forms of sexual misconduct, including but not limited to, sexual harassment, sexual assault, stalking, and intimate partner violence, whether perpetrated by a stranger or acquaintance, whether occurring on- or off- campus, and whether directed against a member of the Boston College community or someone outside the University community. Such conduct by a Boston College student is a violation of University policy, and in certain cases, may also be a criminal violation.

As noted above, the University maintains a Title IX Harassment policy that addresses sexual harassment complaints that fall within the scope of Title IX. In addition, the University maintains a [Discriminatory Harassment Policy](#) to address other discriminatory harassment complaints against faculty and staff.

The University does not limit its ability to respond to inappropriate sexual behavior and forms of sexual misconduct that may not be specifically described in this policy or that does not constitute criminal behavior. None of the definitions below may be read to inhibit the University's ability to address any incident or conduct that it reasonably deems to constitute sexual misconduct or create a discriminatory environment.

In most cases, attempted acts of conduct defined as misconduct under this policy will be treated as instances of sexual misconduct under this policy.

F N T NS

The following terms are defined for the purposes of this policy only. Some of these terms may have different meanings in other contexts, including conduct defined in the Title IX Harassment Policy and in the [Campus Sexual Violence and Misconduct Response and Prevention Program](#), which includes definitions of relevant terms under Massachusetts criminal law. In addition, conduct may fit within more than one definition in this policy and may implicate other University policies.

- i. **Sexual Misconduct** is a broad term that encompasses all the conduct prohibited under this policy, including sexual harassment, sexual assault, and other forms of misconduct or violence of a sexual nature, including, in accordance with Massachusetts law (M.G.L. ch. 6 section 168D), gender based violence and violence based on sexual orientation or gender identity or expression. Sexual misconduct can occur between individuals who know each other, have an established relationship, have previously engaged in consensual sexual activity, and between individuals who do not know each other. Sexual misconduct can be committed by persons of any gender identity, and it can occur between people of the same or different gender.

- ii. **Sexual Harassment** is any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to the conduct is made either explicitly or implicitly a term or condition of a person's employment or education, (2) submission

Definitions of incapacitation, coercion and force include:

- a. **Incapacitation** is the inability to make informed, rational judgments and decisions. Without exception, a person who is asleep or unconscious is incapacitated. A person can also become incapacitated through the use of alcohol or drugs. If alcohol or drugs are involved, incapacitation may be assessed by evaluating how the substance has affected a person's decision-making capacity, awareness, ability to make informed judgments, capacity to appreciate the nature and quality of the act, and the person's level of consciousness. The impact of alcohol and drugs varies from person to person; however, warning signs of possible incapacitation include slurred speech or word confusion, unsteady gait, impaired coordination, inability to perform personal tasks such as undressing, ina

- vi. **Intimate Partner Violence** (also known as Relationship Violence, Dating Violence, or Domestic Violence). Intimate partner violence is any act of violence or a pattern of abusive behavior in an intimate relationship. Intimate partner violence may include actual or threatened physical violence, sexual violence, psychological or emotional abuse, and progressive social isolation. The determination of the existence of an intimate partner relationship is based on the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Individuals who are victims of domestic abuse in Massachusetts may seek an abuse prevention order, also known as a “restraining order” or “209A order,” in addition to pursuing criminal charges and charges through the student conduct system, if the offender is a Boston College student. For more information on Massachusetts law, please go [here](#).

- vii. **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for personal safety or the safety of others or suffer substantial emotional distress. “Course of conduct:” means two or more acts including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- viii. **Complicity** is when a student assists, facilitates, or encourages a violation of this policy.

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V. REPORTING SEXUAL MISCONDUCT

Boston College encourages students who have experienced or are experiencing sexual misconduct to talk to someone about what happened so they can get support and the University can respond appropriately. The report may be made by:

- A person who experienced sexual misconduct; and/or
- A person who has information that sexual misconduct may have been committed by a Boston College student or a participant in a University program or activity.

This policy describes the various reporting and disclosure options available to students so they can make informed choices about where to turn should they experience sexual misconduct.

While Boston College employees have differing obligations or duties with respect to maintaining a complainant's confidentiality, the privacy of student information is respected at all times. Information is shared among a small number of University administrators to the extent required to help ensure that the University responds appropriately to a report of sexual misconduct. In those limited situations (discussed below) in which the University concludes that it must pursue a complaint against an accused student, information will be shared as necessary in connection with the adjudication process. Boston College encourages complainants to talk to someone identified below.

Students are encouraged to report any safety concern to the Boston College Police Department at 617-552-4444 (emergency) or 617-552-4440 (non-emergency). In the event of an emergency, students can also call 911. The Campus Sexual Violence and Misconduct Prevention Program describes the immediate steps take at 602 Tc 4T

written consent of the reporting party. Contact Claire Johnson Allen, LICSW, at johnsoyj@bc.edu or 617-552-2735.____

SANet Hotline: The Sexual Assault Network Hotline is a confidential hotline that is available 24 hours a day, 7 days a week for

NOTE: While these professional and non-professional counselors and advocates may maintain a student's confidentiality with regard to Boston College, they may have reporting or other obligations under state law such as mandatory reporting to the Department of Youth Services in case of minors; threat of imminent harm to self or others; or the requirement to testify if

A Note about the Role and Responsibility of Faculty and Staff: A student may choose to disclose sexual misconduct to a faculty or staff member. Faculty and staff are required to report to the Student Affairs Title IX Coordinator when a student discloses sexual misconduct so that the University can respond appropriately. The report would include any information that the student decides to disclose, including the names of the complainant and respondent(s), any witnesses, and any other relevant facts, including the date, time, and location of the alleged incident.

If a complainant wants to tell a faculty or staff member what happened but also wishes to maintain confidentiality, a complainant should understand that the University will consider the request, but cannot guarantee confidentiality in all cases. In reporting the details of the incident to the Student Affairs Title IX Coordinator, the employee will inform the Coordinator of the complainant's request for confidentiality.

While students should expect that faculty and staff will inform the Student Affairs Title IX

VI. THE UNIVERSITY RESPONSE

The Office of the Dean of Students, in conjunction with the Student Affairs Title IX Coordinator, provides assistance and support to students. For students who report sexual misconduct, the Office of the Dean of Students, the Student Affairs Title IX Coordinator

- " There may be limitations on evidence considered by the hearing panel or officer, including, but not limited to, restrictions on the use of evidence of prior sexual activity or character witnesses;
- " The University, at its sole discretion, may conduct a preliminary investigation prior to a hearing, as described below;
- " If a respondent is found responsible for sexual misconduct under this policy, the Associate Dean, Student Conduct, or designee and the Student Affairs Title IX

hearing. Upon the introduction of any new evidence, the hearing panel members or hearing officer will either provide the parties with an opportunity to respond to the new evidence prior to or during the hearing, or ask the Investigator to re-open the investigation for the limited purpose of addressing the new evidence, which each party shall have the opportunity to review.

C. CONSOLIDATION MATTERS

The University may consolidate complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

The University shall promptly notify the Parties if, in its sole discretion, it determines that matters should be consolidated.

Student Affairs Title IX Coordinator, institute new remedies or administrative actions such as stay away orders, modified housing placement, or academic accommodations. The Student Affairs Title IX Coordinator may also determine that institutional remedies are appropriate, such as additional training.

VIII. APPEALS

Both the respondent and the complainant may submit an appeal of a finding in a sexual misconduct matter in accordance with the appeal process set forth in Section 3.8 the Student Code of Conduct.

Information about submitting an appeal can be found [here](#).

IX. INFORMAL RESOLUTION PROCESS

At any time after a complainant reports sexual misconduct to the Student Affairs Title IX Coordinator or Office of the Dean of Students, and prior to the conclusion of any conduct process, the complainant, respondent, or the University may seek to pursue an informal resolution. The Student Affairs Title IX Coordinator retains discretion to determine if informal resolution process is appropriate, and both parties must provide voluntary and written consent to engage in an informal resolution process.

At any time prior to the conclusion of an informal resolution process, the complainant or respondent may request to end the informal resolution process and participate in the conduct process. If an informal resolution process is ended, any statements made or conduct by the parties during the informal resolution process will not be disclosed to persons who are not participants in the informal resolution process and may not be used, offered, or admitted in the conduct process.

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 institutional remedies including but not limited to disciplinary, academic, housing, and co-curricular remedies
- 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
- Other, as determined by the University

The University will endeavor to complete the Informal Resolution Process in a timely manner. The length of the Informal Resolution process depends upon the complexity of the complaint, which resolution process the parties choose, and the active engagement of the parties. Any resolution developed and agreed upon by the parties through the informal resolution process will be reflected in an agreement signed by the parties (a "Resolution Agreement"). Resolution Agreements will be maintained by Student Affairs and will be enforced by the Office of the Dean of Students.

Once a complaint has been resolved through an informal resolution process, and all terms of any Resolution Agreement have been fulfilled, the matter will be closed. Appeals of any informal resolution process are not permitted. If a party fails to comply with the terms of a Resolution Agreement, the University may proceed to resolve the complaint through the conduct process, and/or enforce the terms of the Resolution Agreement. Students who fail to comply with the terms of a Resolution Agreement may be subject to the University's student conduct process for failure to comply.

X.

University Title IX Coordinator: The University Title IX Coordinator is responsible for coordinating the University's efforts to comply with Title IX, and oversees the University's response to discrimination complaints. The University Title IX Coordinator is the point of contact for any complaint of sexual harassment under Title IX involving conduct by a faculty or staff member. Contact Patricia Lowe, Office for Institutional Diversity (129 Lake Street, Room 217) at 617-552-3334 or patricia.lowe@bc.edu.

Boston College Harassment Counselor: The University Harassment Counselor is responsible for responding to complaints of non-

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Evidence Collection and Medical Treatment: Sexual Assault Nurse Examiners (SANEs) are specially trained nurses who provide immediate, compassionate, and comprehensive medical-legal evaluation and treatment.

- " Beth Israel Deaconess Medical Center ER (preferred hospital), 617-754-2400
- " Brigham and Women's Hospital ER, 617-732-5636

Counseling and Support:

- " Boston Area Rape Crisis Center 24-hour hotline
800-841-8371, www.barcc.org (online webchat available 9:00 AM - 11:00 PM)
- " Fenway Community Health Violence Recovery Program
617-927-6250, www.fenwayhealth.org
- " Domestic Violence/Sexual Assault Program at Newton Wellesley Hospital
617-243-6521, www.nwh.org

Intimate Partner Violence Support and Advocacy:

- " REACH Beyond Domestic Violence 24-Hour Hotline
800-899-4000, www.reachma.org
- " Jane Doe, Inc. Hotline
877-785-2020, <http://www.janedoe.org>
- " The Network La Red (partner abuse hotline)
800-832-1901, <https://www.tnlr.org/en/>

Reporting and Legal Support:

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