

Sexual Misconduct and Relationship Violence Policy

Bridgewater State University prohibits sex discrimination and sexual harassment, which includes but is not limited to, sexual assault, other sexual misconduct, domestic and dating violence, and stalking. These offenses violate University policies and the Community Standards. The University will not tolerate, and will take appropriate action, up to and including termination or dismissal, against those found responsible for sexual misconduct and relationship violence. Sexual misconduct and relationship violence may also constitute crimes which can be addressed by law enforcement. The University is committed to providing a working, living and learning environment that is free from all forms of sexually abusive, harassing, coercive or violent conduct.

This policy applies to all University community members, including students, faculty, staff, and visitors to campus. These policies apply in all university programs and activities, including, but not limited to, athletics, instruction, grading, university housing, and university employment. These policies also apply to off-campus conduct that negatively affects an individual's experience on campus or the overall university environment.

Anyone can be a victim regardless of an individual's sex, gender, sexual orientation, gender identity, gender expression, or other personal characteristics. Misconduct can occur between people of the same or different sexes or between strangers, acquaintances, or those involved in an intimate or dating relationship.

To address these problems, the University provides educational and preventative programs, services and accommodations for individuals who have been impacted by these offenses accessible, prompt, and equitable methods of investigation and resolution; and takes prompt and effective steps to address and remedy the effects of misconduct.

The University complies with Title IX of the Higher Education Amendment of 1972 (Title IX), which prohibits sex discrimination in education programs or activities. These offenses may constitute sex discrimination prohibited by Title IX. The university has appointed its Director of the Nondiscrimination and Equal Opportunity Office ("EO Director") as its Title IX Coordinator to oversee its compliance with Title IX and other equal opportunity laws:

EO Director
Boyden Hall, Room 207
(508) 531-1486
erin.debobes@bridgew.edu

Questions regarding Title IX may be referred to the EO Director at the above address or the Office of Civil Rights at the address set forth below. Please also see the Policy against Sexual Harassment (including Sexual Assault & Sexual Violence) contained in the university's Equal Opportunity, Diversity and Affirmative Action Plan ("EO Plan") available on the university's website, intranet or upon request to the EO Director for further information regarding sex discrimination and sexual harassment generally.

PLEASE NOTE: The Massachusetts Board of Higher Education has proposed revisions to the university's discrimination, discriminatory harassment, and retaliation policies and grievance

procedures described below. Any revisions to this policy will be published in the Student Handbook and the university's website, among other locations.

A. Definitions and Examples

The following definitions are used to enforce this policy and the *Student Code of Conduct and Community Standards*:

1. **Sexual Misconduct**. A broad range of behaviors including:
 - a. **Non-Consensual Sexual Intercourse**. Engaging or continuing to engage in sexual intercourse without the other person's consent. Sexual intercourse means an act of vaginal, oral, or anal penetration, no matter how slight, by an object or body part and includes fellatio, cunnilingus and acts that also may be referred to as sexual assault, rape, or "acquaintance rape". Non-Consensual Sexual Intercourse committed by a date, friend, or someone the victim knows casually is the most prevalent form of this offense on college campuses nationwide. Attempts to commit Non-Consensual Intercourse are also prohibited by this policy.
 - b. **Non-Consensual Contact**. Intentional physical contact of a sexual nature (e.g., touching of breasts, buttocks, or pubic area) with another person without consent. Attempts to commit Non-Consensual Contact are also prohibited by this policy.
 - c. **Sexual Exploitation**. Occurs when an individual takes advantage of another person without that person's consent, such as:
 - Performing sexual acts or disrobing or exposing oneself for sexual gratification in the presence of another person without consent;
 - Non-consensual recording by any means (video, audio, photograph, or other method) of sexual activity or nudity and/or distribution of the recordings;
 - Going beyond the boundaries of consent (e.g., allowing people to watch consensual sexual acts without knowledge of the participants);
 - Peeping or voyeurism; or
 - Knowingly transmitting a sexually transmitted infection to another.Attempts to commit Sexual Exploitation are also prohibited by this policy.
 - d. **Incest**. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Attempts to commit Incest are also prohibited by this policy.
 - e. **Statutory Rape**. Sexual intercourse with a person who is under the statutory age of consent. Under Massachusetts General Law chapter 265, s.23), the statutory age of consent is 16. Attempts to commit Statutory Rape are also prohibited by this policy.
 - f. **Aiding the Commission of the Offense**. Aiding the commission of Sexual Misconduct as an accomplice is also prohibited under this policy.

2. Consent. Consent is a mutually understandable exchange of affirmative words or actions, indicating a willingness to participate in a specific sexual activity. Consent must be informed, freely, and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement.

While non-verbal actions can constitute consent, verbal communication between two people is the best way to ensure that each person knows the intentions of the other person. Silence or a lack of a negative response is not consent.

Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Past consent to sexual activity does not imply ongoing future consent.

In addition, consent may not be given in the following situations:

- a. Incapacitation. Consent may not be given by someone who is incapacitated. Incapacitation is a state in which someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). This includes, but is not limited to:

- Being incapacitated by alcohol or drugs, whether or not voluntarily consumed. Alcohol or drug related incapacitation is more severe than impairment, being under the influence, or intoxication. Evidence of incapacity may be detected from context clues, such as slurred speech, bloodshot eyes, the smell of alcohol on the breath, shaky equilibrium, vomiting, unusual behavior, or unconsciousness. While context clues are important in helping to determine incapacitation, these signs alone do not necessarily indicate incapacitation.
- A person whose incapacitation results from mental disability, sleep, blackout, involuntary physical restraint, or the consumption of rape drugs cannot give consent.

It is important to understand that use of alcohol or drugs by the respondent does not excuse a violation of this policy. The fact finder will determine whether the complainant was incapacitated and whether there were facts and circumstances that would have caused a person, who was unaffected by alcohol or drugs, to be aware that the complainant was incapacitated.

- b. Force; Coercion. Consent cannot be given due to force, intimidation, threats, or coercion.
- Force. The use of any physical force, violence, threats, or intimidation (implied threats) to gain sexual access. A person who is the object of sexual aggression (actual or threatened force) is not required to physically, verbally, or otherwise resist a sexual aggressor.
 - Coercion. Unreasonable pressure or emotional manipulation to persuade someone to engage in sexual acts they may not want to do. Being coerced into performing sexual acts is not consent to those acts.

3. Dating Violence. Violence or abuse by a person who is or was in a romantic or intimate relationship with the victim, such as:
- Hitting, slapping, punching, kicking, pulling hair, sexual misconduct, use of a weapon, or other physical misconduct
 - Damaging one's property
 - Driving recklessly to scare someone
 - Emotional abuse including, but not limited to, controlling what the other person does, where the other person goes, limiting the other person's contacts with friends, or controlling the other person's money or assets without their consent
 - Harassment directed toward a current or former partner
 - Threats of abuse against another (whether victim or acquaintance, friend, or family member of the victim)

The existence of such a romantic or intimate relationship will be determined based upon the reporting party's statement with consideration of the length and type of relationship and frequency of interaction between the persons.

Dating violence does not include situations covered under the definition of domestic violence below.

4. Domestic Violence. Any violent misdemeanor and felony offenses committed by a person who (a) is or was a spouse or intimate partner of the victim, (b) shares a child in common with the victim, (c) lives or lived with the victim as a spouse or intimate partner, (d) is or was in a substantive dating or engagement relationship with the victim, (e) is a relative of the victim (whether blood, step, adoptive or foster), or (f) is or was residing together with the victim in the same household, such as:
- Hitting, slapping, punching, kicking, pulling hair, sexual misconduct, use of a weapon, or other physical misconduct
 - Emotional abuse including, but not limited to, controlling what the other person does, where the other person goes, limiting the other person's contacts with friends, or controlling the other person's money or assets without their consent
 - Threats that put a person in the relationship in fear of imminent harm
5. Stalking. A course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.
- A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly or indirectly, including 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, such as:

- Non-consensual communication in any form whatsoever (e.g., face-to-face, verbal, written, physical, online, telephone, text, email, or instant messages, posts on internet sites, letters, notes, gifts).
 - Gathering information about an individual from family, friends, co-workers, and/or classmates, or electronic means such as installing spy-ware on a computer or using global positioning systems (GPS).
 - Threats in any form whatsoever about an individual or their loved ones or someone close to the individual as well as manipulative and controlling behaviors, such as threats to harm oneself.
 - Damaging, stealing, borrowing, or relocating property, trespassing and vandalism.
 - Non-consensual touching.
 - Pursuing, waiting, or showing up uninvited at a workplace, residence, classroom, or other locations frequented by an individual.
 - Lying to others about the individual.
 - Directing a third party to take any of the above acts.
- A “reasonable person” as used in this definition is a reasonable person under similar circumstances and with similar identities to the victim in the victim’s circumstances.
 - “Substantial emotional distress” means significant suffering or anguish that may, but not necessarily, require medical or other professional treatment or counseling.

Incidents of Sexual Misconduct, Dating Violence, Domestic Violence and Stalking described above may also constitute crimes when they meet the standards under Massachusetts criminal laws (see the Massachusetts crime definitions in Section G below). An individual can be prosecuted under criminal laws and disciplined under university policies.

6. Sexual Harassment. Sexual harassment is unwelcome verbal, non-verbal and/or physical behavior of a sexual nature when:
- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or education; *and/or*
 - b. submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; *and/or*
 - c. such conduct has the purpose or effect of substantially interfering with an individual’s academic or professional performance or creating a sexually intimidating, hostile, or offensive employment, educational, or living environment.

It includes sexual misconduct, dating violence, domestic violence, and stalking as well as other unwelcome harassing behavior based on sex, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of sexual nature. It also includes Gender-Based Harassment described below.

A hostile environment exists when the discriminatory harassment is sufficiently severe or pervasive to interfere with an employee's professional performance, or to deny or limit a student's ability to participate in or benefit from the university's programs or activities based on sex. The university will evaluate the conduct from the perspective of a reasonable person in the alleged victim's position, considering all of the circumstances.

Please see the Policy against Sexual Harassment (including Sexual Assault & Sexual Violence) in the EO Plan for further information about sex discrimination, sexual harassment, and hostile environments created thereby.

7. Gender-Based Harassment. Sexual harassment on the basis of gender, gender identity, gender expression, sexual orientation, or failure to conform to stereotypical notions of masculinity or femininity.
8. "Complainant" means the individual, or the university itself, who makes a complaint
9. "Respondent" means the individual who is accused of violating the university's policies.

B. If an Offense Occurs: Steps to Follow, Available Assistance, and Reporting Options

The university encourages victims of sexual misconduct and relationship violence to talk to someone about what happened to get the support they need. If you believe that you may be the victim of sexual misconduct or relationship violence, consider taking the following steps:

1. Go to a safe place.
2. Seek confidential emergency medical attention. Medical attention is strongly encouraged to treat any possible injuries, including internal injuries, or infections.
 - On Campus: Health Services, Weygand Hall, (508) 531-1252, M-F, 8:30a.m.-4:30p.m.
 - Brockton Hospital Emergency Room, (508) 941-7400

The following hospitals are located near the university's additional locations outside Bridgewater:

- New Bedford Flight Training Center: St. Luke's Hospital, 101 Page St., New Bedford, MA (508 973-5388)
- Attleboro Corporate Campus: Sturdy Memorial Hospital, 211 Park St., Attleboro, MA, (508) 222-5200
- Cape Cod Campus: Cape Cod Hospital, 27 Park St., Hyannis, MA, (508) 862-5969

Brockton Hospital, St. Luke's Hospital, and Cape Cod Hospital have sexual assault nurse examiners (S.A.N.E.) who are trained to deliver medical intervention and forensic-medical examinations for victims of sexual assault.

Please note that there are some medical actions that are more effective if taken within a few days after an offense, such as preventative treatment for pregnancy and sexually

transmitted infections, evidence collection, and toxicology testing if there are signs that drugs or alcohol facilitated the offense.

Generally you may discuss the incident with licensed medical personnel on a confidential basis. Please see “Reporting and Confidentiality: Know Your Options” below for further detail.

3. Obtain confidential counseling and support. Generally you may discuss the incident with a licensed mental health counselor or a counselor recognized by a religious order or denomination on a confidential basis. Please see “Reporting and Confidentiality: Know Your Options” below for further detail.

These counselors are good options if you want to discuss your situation with someone who can keep your information as confidential as possible while assisting you to determine what additional steps to take, such as obtaining further counseling, seeking medical attention, preserving evidence, and/or reporting to university or law enforcement authorities then or at a later time.

On campus counseling assistance:

- Students: Counseling Center, Weygand Hall, (508) 531-1331, M-F, 8:30 a.m.- 4:30 p.m.
- Employees. Contact the university’s Employee Assistance Program (EAP), Lifescope, at (800) 828-6025.

Religious Counselors near campus:

- Catholic Center: (508) 531-1346
- Christian Fellowship Center: (508) 697-7918

Additional off-campus resources are available to assist you. These off-campus service providers are not required to report any information to the university and will generally maintain confidentiality.

- A New Day provides free counseling and advocacy to all individuals impacted by sexual and relationship violence.
(508) 941-7400; (508) 588-8255 (24 hour)
<http://healthimperatives.org/anewday/new-day>
- New Hope works to end domestic and sexual violence.
(800) 323-4673 (24 hour)
Español - Llamanos (800) 223-5001
<http://www.new-hope.org>
- Boston Area Rape Crisis Center
(800) 841-8371 (24 hour hotline)
TTY: (617) 492-6434.
Español: Usted puede llamar nuestra oficina al numero (617) 649-1297 o llamar la línea de ayuda de Llámamos y Hablemos al numero (800) 223-5001

Francais et Kreyol: <http://www.barcc.org/francais>;
<http://www.barcc.org/francais/kreyol>

- Violence Recovery Program at Fenway Health provides counseling, support groups, advocacy, and referral services to lesbian, gay, bisexual and transgender victims of sexual assault and dating and domestic violence.
(800) 834-3242 (M–F, 8 a.m.–5 p.m.);
(877) 875-2020 (after 5 p.m. or on the weekends)
- National Sexual Assault Hotline
(800) 656-4673 (24 hour)
- National Domestic Violence Hotline
(800) 799-7233 (24 hour)
- The National Stalking Resource Center provides online tools and information for victims of stalking, and links to local resources nationwide.
<http://www.victimsofcrime.org/our-programs/stalking-resource-center>

In addition to the above resources, the Victim Rights Law Center is dedicated to serving the legal needs of sexual assault victims. 115 Broad Street, Boston, MA, (617) 399-6720.

4. Consider Your Reporting Options.

Important note: The university strongly encourages victims of sexual misconduct and relationship violence to report the incident so the university can respond appropriately. It is important to note that if you discuss or report an incident to university employees (other than to the medical personnel, counselors or off-campus service providers described in Section 2 and 3 above), the university may be required to investigate under applicable law or when deemed necessary to protect the university community. Please see “Reporting and Confidentiality: Know Your Options” below for further detail.

Each of the officials listed below will provide you with written information regarding available safety and support services, including available medical, counseling, victim’s advocate and disability services, and additional services that are available on and off campus. Retaliation will not be tolerated by the university (see Section D.1.b below for further information regarding the prohibition on retaliation).

OFFICIAL REPORTING OPTIONS

Report to:	Description	Contact Information
Police	<p>We encourage victims to report crimes to the police so they can take appropriate measures to help the victim and prevent future crimes. Campus personnel will assist you to notify the police, if desired.</p> <p>However, you have the right not to report the matter to the police. The university respects your decision whether or not to report the incident.</p>	<p>On-campus incidents: BSU Police: (508) 531-1212 or 911 in an emergency</p> <p>Off-campus incidents: Bridgewater (Town) Police Department: (508) 697-6118 or 911 in an emergency</p>
EO Director (Title IX Coordinator)	<p>You may make a complaint to the EO Director who is also the Title IX coordinator. A Title IX investigation is separate and distinct from a criminal investigation, but may occur at the same time if an individual wishes to pursue both complaints.</p> <p>The EO Director will ensure that complaints are addressed by appropriate University officials and will facilitate interim measures and support services. The EO Officer is also responsible to oversee any Title IX investigation.</p>	<p>EO Director Boyden Hall, Room 207 (508) 531-1486 erin.debobes@bridgew.edu</p>
Other University Officials	<p>You may report the incident to another university official listed at right. Please note that these officials will refer the matter to the EO Director.</p> <p>If a crime is alleged to have occurred, these officials will also refer the matter to the BSU police as required by applicable law and described in Section C.2 below.</p>	<p>Office of Community Standards DiNardo Hall (508) 531-6177</p> <p>Office for Student Affairs Boyden Hall, Room 106 (508) 531-1276</p> <p>Residential Life and Housing (508) 531-1277</p> <p>GLBTA Pride Center Rondileau Campus Center, 109 (508) 531-1408</p> <p>Human Resources Boyden Hall, Room 103 (508) 531-1324</p> <p>President, any vice president, dean, resident director, resident assistant, member of the Athletic Department</p>
Anonymous Report	<p>You may leave a voicemail on the BSU Police Tipline or mail a written statement to the chief of police.</p> <p>The Tipline is a voicemail account only and will not display your phone number. Information left on the Tipline will be used for statistical reporting, will be kept confidential, and typically will not be used to initiate formal proceedings except in compliance with applicable law as necessary to protect the health and safety of the university community.</p> <p>*If you include personal identification in your voicemail or written statement, you will be contacted by the police to confirm whether you wish to make an official report.</p>	<p>BSU Police Tipline (508) 531-6185</p> <p>Chief of Police, Operations Center, 200 Great Hill Drive, Bridgewater, MA 02325</p>
Make No Report	<p>You have the right not to make a report. However, you are strongly encouraged to seek medical attention and counseling. Some individuals wish to file a report at a later date. However, please note that sometimes a delay in reporting can weaken evidence used to determine whether an individual is found responsible for misconduct.</p>	

5. Protection measures and/or interim safety and support measures. The university is committed to supporting victims of sexual misconduct or relationship violence by providing safety and support services and accommodations. Crisis intervention and victim safety concerns may take precedence.

- a. Court Issued Protection Measures: You may consider whether to seek a court-issued restraining order or an order of protection against the alleged perpetrator.

The BSU Police can provide you with information and assist you in your efforts to secure these orders:

BSU Police: (508) 531-1212 or 911

In addition, if you are in immediate danger of abuse and the court is closed, you may get an emergency order by going to the nearest police department. On campus, call the BSU Police for assistance.

- b. University Issued Interim Measures. The university will take appropriate interim measures prior to the start and/or conclusion of a Title IX investigation. Interim measures are intended to ensure the safety of the alleged victim until the complaint is resolved. Please contact the EO Director at (508) 531-1486, the Director of Community Standards at (508) 531-6177 or the Director of Human Resources at (508) 531-1324 to discuss the options regarding interim measures which may include, without limitation, the following:

- Interim restriction/suspension of, or temporary leave of absence for, the alleged perpetrator;
- No-contact order;
- Changes to university academic, living, working, dining, and transportation situations regardless of whether you choose to report the crime to the police. The university will honor your request if the changes are reasonably available:
 - Services of an academic advisor to arrange a change in an academic schedule or other academic support services, such as tutoring;
 - Alternative housing, work, or transportation arrangements;
 - Reasonable accommodations for a disability;
 - Assistance or questions regarding visa or immigration status; and/or
- In accordance with the provisions of Massachusetts General Laws c. 149, section 52D, an employee may take up to 15 days of leave in any 12 month period (after exhausting all other annual or vacation leave, personal leave, and sick leave available to the employee) if the employee or a family member is the victim of abusive behavior (including domestic violence, stalking, sexual assault and kidnapping) in order to address issues related to the abusive behavior. The leave is not available if the employee is the perpetrator of the abusive behavior against the employee's family member. To request this leave, please contact the Director of Human Resources (please note: advanced notice is not required if

there is a threat of imminent danger to the health or safety of the employee or the employee's family member but notice must be provided within three workdays and documentation requirements apply). All information related to the employee's leave under section 52D will be kept confidential and will not be disclosed except as permitted by law. Please see: <https://malegislature.gov/Bills/BillHtml/138772?generalCourtId=11> for further information.

Information about how these measures will be kept confidential is described under "Reporting and Confidentiality: Know Your Options" below.

6. Steps to preserve evidence. If you wish to press charges or seek a protective order (then or in the future), it is important to preserve and record evidence and seek medical attention shortly after the event. Getting a medical exam does not mean that you must press charges.

To preserve evidence, you are encouraged to take the following steps:

- a. Don't wash anything (including your hair, hands, mouth and face), shower, douche or change your clothes before getting help. If clothes are changed, soiled clothes should be placed in a paper bag, as plastic bags may destroy crucial evidence.
 - b. Don't comb or brush your hair.
 - c. If oral contact has occurred, don't smoke, eat, or brush your teeth.
 - d. Don't drink liquids or urinate.
 - e. Don't touch any evidence of struggle or disarray.
 - f. Record evidence including a description of the perpetrator (including type of clothing, race, age, height, weight, hair and eye color, distinguishing marks), where the events occurred, details of the events and the direction of travel of any vehicle involved. In the case of stalking, consider preserving other relevant information such as correspondence, social media posts, emails, texts or other communications or events.
7. Reporting Discrimination, Discriminatory Harassment, or Retaliation to Governmental Agencies. In addition to the university's discrimination and harassment procedures, if you believe you have been subjected to unlawful discrimination, discriminatory harassment, or retaliation, you may contact or file a complaint with the appropriate governmental agencies listed below:

Inquiries regarding federal laws may be directed to:

U.S. Department of Education
Office for Civil Rights
5 Post Office Square
8th Floor
Boston, MA 02109-3921
(617) 289-0111
Email: OCR.Boston@ed.gov

Equal Employment Opportunity Commission (employees)
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
(617) 565-3200; TTY: (617) 565-3204

Inquiries regarding state laws may be directed to:

Massachusetts Commission Against Discrimination
One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
(617) 727-3990 (x588 for TTY)

C. Reporting and Confidentiality: Know Your Options.

1. Confidential Options.

- a. Confidential Discussions: Licensed Mental Health Counselors, Licensed Health Care Personnel and Pastoral Counselors. These professionals are required to maintain near complete confidentiality. They can assist victims to understand available protection, services, accommodations, and reporting options (including a Title IX complaint to the EO Director and/or a separate complaint to the police), as well as providing ongoing support if a victim chooses to proceed with university grievance or criminal proceedings.

There are only limited circumstances in which they are required by law to break confidentiality, such as when they have reasonable cause to believe an individual under the age of 18 is suffering from abuse and/or neglect (which require a report to Massachusetts Department of Children & Families) or there is a risk of immediate substantial harm.

In addition, licensed counselors and health care personnel who are employed by the university report non-personally identifiable statistical information (the type of incident reported, the general location of the incident (on or off campus) but not the identities of the victim or the alleged perpetrator) for the purpose of statistical reporting and timely warnings as described below.

- b. Off-Campus Confidential Resources. Off-campus service providers and advocates are not required to share any information with the university without the victim's consent and can generally maintain confidentiality. For specific information regarding these resources' ability to maintain confidentiality, please discuss the question directly with the service provider.

2. Reports to BSU Police; Reports and Discussions with Other University Employees.

It is important to note that if someone discusses or reports an incident of sexual harassment, sexual misconduct, or relationship violence with a university employee (other than licensed counselors, licensed health care personnel, or pastoral counselors), the university may be required to investigate under applicable law or when deemed necessary to protect the university community.

- a. Reports to BSU Police. Reports to the BSU Police may be used to commence a criminal investigation. In addition, reports will be used for statistical reporting and timely warnings as described below. Personally identifiable information will not be forwarded to the EO Director without the victim's consent. However, the BSU Police may forward non-personally identifiable statistical information to the EO Director.
- b. Other University Employees. All other university employees are required by the Affirmative Action, Diversity and Equal Opportunity Plan to report when they learn of an incident of sexual harassment, sexual misconduct, or relationship violence to the EO Director, including the names of the victim and alleged perpetrator(s) and any other relevant facts that they are provided. This generally obligates the university to commence a Title IX investigation and take appropriate steps to address the situation.

If a crime is alleged to have occurred on campus, on university-controlled property, or on public property immediately adjacent to campus, university employees are also required to report the incident to the BSU police in compliance with applicable law. The report will include the victim's name when the victim consents or if there appears to be a safety issue as determined by university protocols.

However, the reported information (as well as any interim measures put in place) will be shared only with people responsible for handling the university's response to the matter and will be maintained in a secure manner. Reported information will also be used for statistical reporting and timely warnings as described below.

Whenever possible, employees should disclose their duty to report incidents of sexual harassment, sexual misconduct, and relationship violence before someone reveals information about an incident. They should also disclose where to find information regarding confidential counseling, advocacy and support services and available reporting options and that the university prohibits retaliation.

If the individual wants to tell the employee about the incident but also maintain confidentiality, the employee should tell the individual that the EO Director will consider the request but cannot guarantee that the university will be able to honor it. Employees should not pressure victims to either make full reports or request confidentiality.

Requests for Confidentiality or That No Investigation Occur: How the University Will Weigh the Request and Respond. If an individual discloses an incident of sexual misconduct or relationship violence but requests that the university maintain the individual's confidentiality or that no investigation or disciplinary action occur, the university will weigh the request against its obligation to provide a safe, non-discriminatory environment for all of its community members, including the victim, and comply with applicable laws.

It is important to understand that the university's ability to meaningfully investigate an incident and pursue disciplinary action against the alleged perpetrator(s) may be limited if the university honors a confidentiality request.

The university has designated the EO Director to evaluate these requests in consultation with the Chief of Police regarding any incident in which a crime is alleged. The EO Director will consider a range of factors, including, but not limited to factors indicating increased safety risk, such as whether:

- There have been other sexual misconduct or other violence complaints about the same alleged perpetrator;
- The alleged perpetrator has a history of arrests or records indicating a history of violence as indicated by available records;
- The alleged perpetrator threatened any further violence against the victim or others;
- The misconduct was committed by multiple perpetrators;
- The act was perpetrated with a weapon;
- The victim is a minor;
- The university possesses no other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence);
- There appears to be a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- Other circumstances indicating an increased risk of violence or harm.

The presence of one or more of these factors could lead the university to investigate and, if appropriate, pursue disciplinary action. The university will inform the victim prior to starting an investigation and will, to the extent possible, only share information with the people responsible for handling the university's response. The university may not require a victim to participate in any investigation or disciplinary proceeding. The university will take interim measures as necessary to protect and assist the victim.

In the event that the victim requests that the university inform the alleged perpetrator that the victim asked the university not to investigate or seek discipline, the university will honor this request and inform the alleged perpetrator that the university made the decision to go forward.

If none of these factors is present, the university will likely respect the victim's request for confidentiality. It will also take interim measures as necessary to protect and assist the victim. In this instance, the university will consider broader remedial action, such as increased monitoring, supervision, or security at locations where the incidents occurred, increased or targeted education or prevention measures, conducting climate assessments/victimization surveys, and/or revisiting its policies and practices.

3. Disclosures at public awareness events. Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs" or

other forums in which individuals disclose incidents of sexual violence or relationship violence are not considered notice to the university and do not trigger an obligation to investigate any particular incident(s). Such events may, however, inform education and prevention efforts.

4. Timely Warnings and Statistical Reporting.

- Timely Warnings. When the university, through a report to a university official, becomes aware of a sexual assault, dating or domestic violence or stalking incident that occurred on campus, on university-controlled property or on public property immediately adjacent to campus, under circumstances that indicate that there is a continuing or serious threat to the campus community, the university is required by law to issue a timely warning to the campus. The university will provide enough information to safeguard the campus community but will not disclose the victim's name or other personally identifying information about the victim.
- Statistical Reporting. The university is required by federal law to maintain a daily log of reports of crimes that occurred on campus, university-controlled property or public property immediately adjacent to campus, including reports of sexual assault, domestic or dating violence and stalking, and to publish an Annual Campus Crime Report concerning reported incidents that fit the crime definitions. The university does not include the victim's name or other personally identifying information about the victim in the daily log or the Annual Campus Crime Report. Statistical information concerning these crimes is also reported to the EO Director for Title IX purposes.

5. Student Respondent Confidentiality. Confidentiality with respect to a student accused of violating this policy is governed by the Family Educational Rights and Privacy Act (FERPA). Information regarding the university's compliance with FERPA is available at in the Student Handbook.

D. Investigation, Grievance, and Disciplinary Procedures

The university has established procedures to resolve complaints of discrimination, discriminatory harassment, and retaliation, including complaints of sexual misconduct and relationship violence.

There are currently two separate procedures:

- The Student-to-Student Grievance Procedure which applies to complaints about student-to-student behavior; and
- The EO Plan Grievance Procedure which applies to all other complaints.

Procedures that apply to both sets of grievance procedures are described in Section D.1. Procedures that apply to the Student-to-Student Grievance Procedure only are described in Section D.2. A link to the EO Plan Grievance Procedure is provided in Section D.3.

1. Procedures that apply to both the Student-to-Student Grievance Procedure and the EO Plan Grievance Procedure.

- a. Reports Are Referred to the EO Director. Reports of discrimination, discriminatory harassment, including sexual harassment, sexual misconduct and/or relationship violence, or retaliation will be referred to the EO Director. Prior to commencing an investigation, the EO Director will determine whether the report or complaint states facts, which if true, would violate this policy, the Policy against Discrimination, Discriminatory Harassment and Retaliation, or the Policy against Sexual Harassment (including Sexual Assault & Sexual Violence) and may consult with the complainant to obtain additional information. The complainant will be provided with a written explanation of their options and rights under those policies and the applicable grievance procedures.
- b. Retaliation Is Prohibited. The university prohibits retaliation against any person who files a claim, complaint, or charge under these policies or applicable law or who assists or participates in an investigation or resolution of such claim, complaint, or charge. In addition, no university employee or agent may retaliate, intimidate, threaten, coerce or otherwise discriminate against any individual for exercising their rights or responsibilities under this policy. Retaliation is a serious violation of university policies and the university will take strong responsive action if it occurs, including disciplinary action up to and including termination or dismissal.
- c. Prompt, Fair, Impartial. Both the Student-to-Student Grievance Procedure and the EO Plan Grievance Procedure have been designed to include prompt, fair, and impartial processes from investigation to final result. The proceedings will be conducted in a manner consistent with university policies and transparent to the parties. Formal rules of process such as those applied in criminal or civil courts are not used in these investigations.
- d. Trained Grievance Officials. All grievance proceedings are conducted by officials who receive annual training on the issues of sexual harassment, sexual misconduct, and relationship violence, on how to conduct an investigation and grievance process that protects the safety of victims and promotes accountability, and provides the respondent and the complainant with the same opportunities to be accompanied to any related meeting or proceeding by an advisor of their choice. Officials conducting the grievance proceedings are required by the university to disclose any conflict of interest or bias for or against the complainant or respondent and if one exists, such official may not participate in the proceeding.
- e. Interim Protective Measures. The university will put in place interim measures as necessary to protect the complainant as described in Section B.5 above. These actions may be instituted and modified at any point during the process.
- f. Standard of Review. All complaints will be evaluated under the “preponderance of the evidence” standard. Under this standard, conclusions must be “more likely than not.” Accordingly, the fact-finder must find that it is more likely than not that the respondent violated the university’s policies.
- g. Timing. Investigations are normally completed within 60 days of receiving a complaint. If more time is necessary, written notice of the delay and the reasons for the delay will be provided to the complainant and respondent.

- h. No Mediation. Mediation is not available for sexual misconduct and relationship violence cases.
- i. Notice of Meetings and Access to Information. Each complainant and respondent will be provided timely notice of meetings at which such party or both parties may be present. They will also be given timely access to any information that will be used after the fact-finding investigation but during informal and formal disciplinary meetings.
- j. Advisor. Each complainant, respondent and/or victim may have an advisor of their choice accompany them to all meetings and disciplinary proceedings. Except as otherwise required by law, the advisor may observe, but may not participate in, the meeting or proceeding in any way whatsoever, including, without limitation, by asking questions or speaking.
- k. Notice of Results. The university will simultaneously notify, in writing, both the complainant and the respondent of:
 - o The result of the investigation and grievance procedure, the rationale for the result, and, if applicable, all sanctions imposed that arise from an allegation of sexual assault, sexual violence, dating or domestic violence, stalking, or other crime of violence and any sanctions that directly relate to the victim that arise from an allegation of sexual harassment. If the victim is deceased as a result of the offense, the university will provide the results of the disciplinary hearing to the victim's next of kin, if so requested. "Result" includes an initial, interim, or final decision by any official authorized to resolve these matters on behalf of the university.
 - o Appeal rights of the complainant and the respondent;
 - o Any change to the result; and
 - o When such results become final.
- l. Sanctions. If a respondent is found responsible for committing a violation of university policies, appropriate sanctions or disciplinary measures will be imposed up to and including, expulsion or termination.
- m. Additional Remedies Following Finding of Responsibility. The university will take steps to prevent recurrence of harassment and to correct its discriminatory effects on the complainant and others, as appropriate. This includes providing additional remedies, in addition to any sanction, to remedy the effect of offense. These remedies are separate from, and in addition to, any interim measure that may have been provided prior to the conclusion of the investigation and grievance process. In any instance in which the complainant declined or did not take advantage of a specific service (e.g., counseling) offered as an interim measure, the complainant will be re-offered the services described in Section B. In addition, the EO Director will consider broader remedial action for the university community such as increased monitoring, supervision, or security at locations where the incidents occurred, increased or targeted education and prevention efforts, conducting climate assessments/victimization surveys, and/or revisiting its policies and procedures. In

addition, whatever the outcome of the investigation, a complainant may request ongoing or additional accommodations which may be granted by the EO Director, in consultation with the Director of Community Standards, such as moving the complainant's residence or changing the complainant's academic or work schedule.

2. Procedures that Apply Only to the Student-to-Student Grievance Process.

- a. Student Amnesty with respect to Allegations of Sexual Misconduct or Relationship Violence. At times, students are hesitant to report the occurrence of sexual misconduct or relationship violence to the university because they are concerned that they, or witnesses to the misconduct, may be charged with violations of the *Student Code of Conduct and Community Standards* or other university policies. While these behaviors are not condoned, the importance of dealing with them pales in comparison to the need to address sexual misconduct and relationship violence. Accordingly, in connection with an incident of sexual misconduct or relationship violence, the university typically will not pursue disciplinary action against a student who claims, in good faith, to be the victim of, or a witness to, such incident for violations of the *Student Code of Conduct* or other policies if the violation(s) did not place the health or safety of another person at risk.
- b. Investigation by EO Investigator and Report. Following receipt of a report under Section D.1.a above, the EO Director or designee (the "EO Investigator") will investigate the complaint. The EO Director may be the EO Investigator. Each complainant and respondent is permitted to submit evidence and questions in writing to the EO Investigator to ask each other and the witnesses. The evidence, questions and answers will be included in the EO Investigator's report. Generally, in regards to sexual misconduct cases, questions, statements, or information about the sexual activity of the complainant or alleged victim with anyone other than the respondent is not relevant, and thus will not be considered. If the complainant raises their own sexual activity with anyone other than the respondent, relevant questions may then be asked about that relationship. The EO Investigator may utilize police investigation reports.

If the respondent does not respond to requests to participate in the investigation, the EO Investigator will complete the investigation based on the other information obtained.

The EO Investigator typically will complete their investigation within 60 days as indicated in Section D.1.g above. Upon completion of the investigation, the EO Investigator will prepare a report containing factual findings based on a preponderance of the evidence standard, a determination of responsibility, and a sanction recommendation, if applicable.

- c. Administrative Review Committee; Final Report. The Director of Community Standards will appoint one or two Administrative Review Officers to an Administrative Review Committee (as defined in the *Community Standards* in the Student Handbook) to review the EO Investigator's report (minus the sanction recommendation). The Administrative Review Committee may consult with the EO Investigator, request further investigation by the EO Investigator, request clarifications or revisions by the EO Investigator to the EO Investigator's report, or require a new investigation by another investigator. The Administrative Review

Committee may approve the EO Investigator's report or require a new report if a new investigation by a new investigator has been required. The Administrative Review Committee may not, however, conduct its own investigation or hearing.

Following its approval of the investigator's report (the "Final Report"), the Administrative Review Committee will send the Final Report to the Director of Community Standards and the EO Director. Where there has been a finding of responsibility, the EO Investigator will send the sanction recommendation to Administrative Review Committee. The Administrative Review Committee will also consult with the Director of Community Standards (or designee) and, if the EO Investigator is not the EO Director, the EO Director, regarding sanctioning. The respondent and complainant will simultaneously be notified of the factual findings(s) of the Final Report in writing. Upon written request, a copy of the Final Report, in compliance with applicable law, will be made available to the respondent and complainant.

- d. Impact Statements. If there is a finding that the respondent violated university policy, the Administrative Review Committee will provide the respondent and complainant notice of their opportunity to provide to the Administrative Review Committee written impact statements describing aggravating or mitigating circumstances related to the incident which may impact sanctioning within 5 business days of receipt of this notice.

If the complainant or respondent does not submit an impact statement within the 5 business day period, the Administrative Review Committee will determine sanctions without such party or parties' input. Additionally, the Administrative Review Committee will review the respondent's *Student Code of Conduct and Community Standards* history, if one exists.

- e. Sanctioning. Following consideration of any timely submitted impact statements and the recommendation of the EO Investigator, the Administrative Review Committee will issue a final decision regarding sanctioning regarding a respondent found responsible of violating university policy and forward it to the EO Director and Director of Community Standards. The EO Director will consider additional remedies for the complainant as described in Section D.1.m above. The Director of Community Standards will then inform the respondent of the imposed sanctions.

The sanction precedent for students for Non-Consensual Sexual Intercourse is expulsion. The sanction precedent for students for Non-Consensual Sexual Contact, Sexual Exploitation, Dating Violence, Domestic Violence and Stalking is suspension or expulsion. Sanctions are determined by the seriousness of the violation, precedent for similar violations, and any other circumstances indicating that the sanction should be more or less severe. For further detail regarding each sanction, please see the *Student Code of Conduct and Community Standards*. The complainant will be notified of sanctions where permitted by law as described above.

- f. Right to Appeal. Both the respondent and complainant will be informed of their right to appeal the findings in accordance with the appeals process as outlined in the *Student Code of Conduct and Community Standards* in the Student Handbook, including the stated time limits.

- 3. EO Plan Grievance Procedure.** All complaints other than student-to-student complaints are investigated and resolved pursuant to the EO Plan including the Policy against Sexual Harassment (including Sexual Assault & Sexual Violence) and Appendix 3. See http://www.bridgew.edu/sites/default/files/Equal%20Opportunity%20Plan%20%282013%29%20%283_6_14%20revision%29%20%289%29.pdf

E. Written Notification of Rights and Options, Available Resources, Services, and Information.

The university seeks to ensure that all students and employees have access to needed resources, services, and information. The university will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available on campus and in the community. In addition, the university will provide notification to victims of their rights and options set forth in this policy, including, but not limited to, options for, and available assistance in changing academic, living, transportation, and working situations, if reasonably available, regardless of whether the victim chooses to report the crime to the police.

F. Education and Prevention Programs; Training

The university is committed to providing on-going education and support programs aimed at the eradication of sexual misconduct and relationship violence.

The university has implemented primary and on-going prevention and awareness programs for students and employees focused on sexual misconduct, relationship violence, risk reduction and bystander prevention (e.g., safe and positive options that may be carried out to prevent harm or intervene when there is a risk of sexual misconduct or relationship violence), and promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality. These programs include, but are not limited to:

- Haven, an interactive population-level approach to educate students and employees on issues associated with sexual assault and relationship violence, providing key definitions and statistics, reflective and personalized content, and bystander skill and confidence-building strategies.
- “Speak About It”, a performance-based program about consent, boundaries, and healthy relationships, is presented at orientation to incoming students.
- “Bringing in the Bystander”, a prosocial bystander prevention program, is offered to students and employees to provide them with the knowledge and skills to enable them to intervene safely as bystanders.
- The BSU Police also offer Rape Aggression and Defense training twice a year for students and employees.

The programs include information regarding this policy, definitions of the offenses under university policy and Massachusetts law, available assistance and accommodations, and reporting options.

G. Related Massachusetts Crime Definitions

Violations of this policy are determined by the language of this policy rather than Massachusetts state criminal law. However, individuals who believe they have been the victim of a crime may choose to pursue a criminal complaint through law enforcement. In those instances, Massachusetts law and the definitions of the related Massachusetts crimes apply:

- **Sexual Assault:** Massachusetts uses the term rape. The definition encompasses (1) the penetration of any orifice by any body part or object (2) by force (or threat) and (3) without consent. Rape also includes instances where the victim is incapacitated (“wholly insensible so as to be incapable of consenting”) and the perpetrator is aware or should have known of the incapacitation.
<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section22>;
<http://masscases.com/cases/sjc/450/450mass583.html>
- **Consent:** Massachusetts law uses the term “against his/her will” which means without consent. There is no definition of the term in the statute. However, cases have held that consent cannot be compelled or induced by force or threats and consent is not present when the victim is incapacitated. *Commonwealth v. Lopez*, 433 Mass. 722 (2001), *Commonwealth v. Lefkowitz*, 20 Mass. App. Ct. 513 (1985); see also:
<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section22>;
- **Domestic Violence and Dating Violence:** Massachusetts abuse prevention law, chapter 209A, section 1 defines abuse as the occurrence of one or more of the following acts between family or household members: (A) attempting to cause or causing physical harm; (B) placing another in fear of imminent serious physical harm; (C) causing another to engage involuntarily in sexual relations by force, threat or duress. Family or household members are defined as persons who (a) are or were married to one another; (b) are or were residing together in the same household; (c) are or were related by blood or marriage; (d) have a child in common regardless of whether they have ever married or lived together; or (e) are or have been in a substantive dating or engagement relationship, which is determined by considering 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
<http://www.malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A>

Massachusetts General Law chapter 265, section 13M, a criminal statute prohibiting assault and/or assault and battery on a family or household member (defined as persons who (i) are or were married to one another; (ii) have a child in common regardless of whether they have ever married or lived together; or (iii) are or have been in a substantive dating or engagement relationship; provided, that whether a relationship is substantive is determined by considering (a) the length of time of the relationship; (b) the type of relationship; (c) the frequency of interaction between the parties; (d) whether the relationship was terminated by either person; and (e) the length of time elapsed since the termination of the relationship. . See: <https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section13M> as amended by Chapter 260 of the Acts of 2014:
<https://malegislature.gov/Bills/BillHtml/138772?generalCourtId=11>

Massachusetts General Law chapter 265, section 15D is a criminal statute which prohibits strangulation or suffocation of another person.

<https://malegislature.gov/Bills/BillHtml/138772?generalCourtId=11>

- Stalking: Massachusetts General Law chapter 265, section 43 defines “Stalking” as “(1) willfully and maliciously engag[ing] 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 (2) mak[ing] a threat with the intent to place the person in imminent fear of death or bodily injury.” <http://www.malegislature.gov/Laws/GeneralLaws/PartIII/TitleI/Chapter265/Section43>