

# Sexual and Gender-based Misconduct Policy

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## 1.0 Policy Purpose

This policy prohibits Sexual Harassment, Gender-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking, in addition to Sexual Exploitation and Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct. This policy also prohibits Retaliation against an individual for making a report of conduct prohibited under this policy or for participating in an investigation of an alleged violation of this policy.

This policy is in accordance with relevant provisions of the Violence Against Women Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; their implementing regulations; and other applicable federal and Rhode Island state laws and regulations.

## 2.0 To Whom the Policy Applies

This policy applies broadly to employees and students collectively known as “Covered Persons.” This policy pertains to acts of Prohibited Conduct committed by or against Covered Persons when:

- (i.) the conduct occurs on property owned, leased, used or controlled by Brown University,
- (ii.) the conduct that occurs in University programs or activities abroad; and/or
- (iii.) the conduct occurs off-campus, in the United States, outside of the context of a program, activity, or location of Brown when Brown exercises substantial control over both Complainant and the Respondent, and the effects of the Prohibited Conduct have a continuing discriminatory effect at Brown.

**Note:** Complaints involving student Respondents who are participants in Summer@Brown or Pre-College Programs should refer to the policies and procedures governing students enrolled in those programs.

## 3.0 Policy Statement

The purpose of this policy is to establish and maintain an inclusive learning, living, and working environment where healthy, respectful, and consensual conduct represents a campus cultural norm that is free from discrimination and harassment. To that end, this policy requires Covered Persons to act in a manner that does not intentionally or unintentionally discriminate against or create a hostile environment for another on the basis of their actual or perceived gender, gender-identity and gender-expression, and sexual orientation (**Sexual and Gender-Based Harassment**). **Sexual Assault, Dating Violence, Domestic Violence, and Stalking** as defined in the Violence Against Women’s Act (VAWA) is prohibited by this policy. This policy also addresses actions that purposefully takes sexual advantage of another person (**Sexual Exploitation**) and instances in which someone purposefully uses alcohol or other drugs to engage

in sexual activity with other person (**Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct**). Finally, this policy prohibits adverse actions taken against an individual for making a report of conduct prohibited under this policy or for participating in an investigation of an alleged violation of this policy (**Retaliation**). These behaviors will be collectively known as Prohibited Conduct and are actions that undermine the character and purpose of Brown University, and will not be tolerated.

It is the responsibility of every member of the Brown University community to foster an environment free from discrimination and harassment. Covered Persons must be respectful of power-dynamics and privilege associated with their role, position, rank, or identity and avoid actions that would leverage that power to compel others to consent to unwanted behavior or deny others equal access to the programs and activities of Brown. Abusing or taking advantage of one's power, supervision, or authority over another is unacceptable and may create a hostile environment for the individuals involved and the community at large that seriously undermines the atmosphere of trust essential to the academic enterprise.

All members of the University community are encouraged to take reasonable and prudent actions to prevent or stop the conduct prohibited by this policy. This may include direct intervention when safe to do so, enlisting the assistance of others, contacting law enforcement, or seeking assistance from a person in authority. University community members who choose to exercise this positive responsibility will be protected from retaliation.

### 3.1 Reporting

#### 3.1.1 Designated Reporting Locations

The University encourages individuals who are harmed or targeted by or witnesses of Prohibited Conduct to report incidents to Jeana Horton, who is Brown's interim Title IX Program Officer. The Title IX Program Officer is the Title IX Coordinator for Brown and oversees the University's response to these reports. Individuals can report incidents directly to the:

##### **Title IX and Gender Equity Office**

Horace Mann House  
47 George Street

[titleixoffice@brown.edu](mailto:titleixoffice@brown.edu)  
[\(401\) 863-2026](tel:(401)863-2026)

[\(401\) 863-5140](tel:(401)863-5140)

**Online reporting form:** <https://www.brown.edu/about/administration/title-ix/online-reporting>

Reports that involve an imminent safety risk should go to the:

##### **Department of Public Safety**

75 Charles Street  
Emergency Line [\(401\) 863-4111](tel:(401)863-4111)  
Non-emergency Line [\(401\) 863-3322](tel:(401)863-3322)

*Note: In all cases in this process, when the term "Title IX Program Officer" or other University official is referenced, the term shall also mean a designee.*

#### 3.1.2 Confidential Support Services

Individuals may also speak with a confidential resource to learn of the support measures and complaint options available. The following offices are confidential resources and are under no obligation to disclose the content of conversations with the Title IX and Gender Equity Office. A disclosure to a confidential resource does not constitute a report or actual knowledge to the University. Confidential resources are:

##### **Counseling and Psychological Services (CAPS)**

[\(401\) 863-3476](tel:(401)863-3476)  
Page-Robinson Hall 512  
<https://www.brown.edu/campus-life/support/counseling-and-psychological-services/>

**Brown Emergency Medical Services (EMS)**

[401-863-4111](tel:401-863-4111)

<https://www.brown.edu/campus-life/health/ems/>

**Faculty and Staff Assistance Program**

[\(800\) 624-5544](tel:800-624-5544)

<https://www.brown.edu/about/administration/human-resources/benefits/health-and-wellbeing/facultystaff-assistance-program>

**The Chaplains**

Office of the Chaplains and Religious Life

[\(401\) 863-2344](tel:401-863-2344)

Page-Robinson Hall 410

<https://www.brown.edu/campus-life/spiritual-life/chaplains/about/people>

**Sexual Assault Response Line**

[\(401\) 863-6000](tel:401-863-6000)

<https://www.brown.edu/campus-life/health/services/promotion/sexual-assault-dating-violence-get-help/sexual-assault-response-line>

**Sexual Harassment & Assault Resources & Education (SHARE) Advocates**

[\(401\) 863-2794](tel:401-863-2794)

Andrews House

13 Brown Street

<https://www.brown.edu/campus-life/health/services/promotion/sexual-assault-dating-violence-get-help-help-friend/share-advocates>

**University Health Services**

[\(401\) 863-3953](tel:401-863-3953)

13 Brown Street

<https://www.brown.edu/campus-life/health/services/>

**3.1.3 Community Resources**

Brown University also strongly encourages anyone who becomes aware of an alleged incident of Prohibited Conduct which may constitute a violation of Rhode Island State Law to report the incident to local law enforcement, and will provide support, resources, and assistance to those who do so.

**Providence Police Department**

Emergency: 911

Non-Emergency: [\(401\) 272-3121](tel:401-272-3121)

**Day One (The Sexual Assault & Trauma Center)**

Helpline: [1-800-494-8100](tel:1-800-494-8100)

<https://www.dayoneri.org/>

**3.1.4 Mandatory Reporters**

Taking meaningful action when conduct prohibited by this policy occurs is a critical component to Brown's commitment to a campus that is free from discrimination and harassment. Brown asks faculty and staff in varying leadership roles who oversee the welfare of faculty, staff, students, and University programs to assist us in these efforts by reporting all disclosures or knowledge of Prohibited Conduct to the Title IX Program Officer. Such reports amplify the University's ability to know what is occurring within its programs and activities and to respond accordingly. The Title IX Program Officer will conduct an initial assessment of these reports and will do so in a manner consistent with the privacy choices of the Complainant or reporting party.

Community members who are mandated to report allegations of Prohibited Conduct to the Title IX Program Officer are:

- Academic department chairs and directors of University institutes (i.e. Watson, ICERM, etc.)
- Athletic Team Head Coaches and Assistant Coaches including Strength and Conditioning Coaches
- Deans and Directors in Campus Life
- Deans and Directors in The College
- Deans and Directors in the Graduate School
- Deans and Directors in the Office of the Dean of the Faculty, Schools of Engineering, Public Health, and Professional Studies
- Deans and Directors in the Warren Alpert Medical School
- Deputy Title IX Coordinators
- Director of Athletics and Assistant and Associate Directors of Athletics
- Directors, Assistant Directors, and Area Coordinators in University Residential Life and Housing Programs
- Directors of Undergraduate Studies
- Directors of Graduate Studies

Any questions about the status of an employee as a 'Mandatory Reporter' should be addressed to the Title IX Program Officer.

All other faculty, staff, and students not designated as a Mandatory Reporter are strongly encouraged to report allegations of Prohibited Conduct to the Title IX Program Officer or a Deputy Title IX Coordinator. Before making this disclosure, employees should confer with the individual harmed or targeted by the Prohibited Conduct to make sure they are aware of the requirement to make this referral.

Upon receipt of a report or other knowledge of alleged Prohibited Conduct, the Title IX Program Officer will contact the individual(s) alleged to be harmed by or subjected to the Prohibited Conduct to inform them of the (i.) available support measures (ii.) confidential resources and support services on-campus, (iii.) the importance of preserving evidence related to the Prohibited Conduct alleged, (iv.) the process of filing a formal complaint, (v.) the option to file a civil or criminal complaint, and (vi) a written explanation of their rights.

### **3.1.5 Time Frame for Reporting**

The University will accept a report of Prohibited Conduct at any time, although the University's ability to investigate may be limited with the passage of time. There is no time limit on submitting a Formal Complaint; however, a Complainant pursuing a complaint resolution process associated with this policy must have been participating in or attempting to participate in an educational program, employment, or other activity of Brown at the time in which the alleged Prohibited Conduct occurred.

If the Complainant and/or Respondent is no longer affiliated with Brown (*e.g.*, a report is made after a student is no longer enrolled or has graduated, or an employee is no longer employed by Brown), the University will provide reasonably available and appropriate support measures, assist the Complainant in identifying external reporting options, and may take appropriate action to address the Prohibited Conduct.

### **3.1.6 Amnesty**

#### **3.1.6.1 Personal Ingestion of Alcohol and Other Drugs**

Brown University generally will offer amnesty to Complainants, Respondents, reporting parties, and witnesses who disclose the personal ingestion of alcohol or other drugs, in violation of Brown University Code of Student Conduct, when making a report of Prohibited Conduct and/or participating in a complaint procedure associated with this policy. Although amnesty safeguards the individual from a disciplinary notation or finding of responsible for a policy violation for drugs or alcohol, it does not exempt the University from taking appropriate action to address the conduct and/or mitigate future violations.

#### **3.1.6.2 Violation of Healthy Brown Public Health Protocols**

Brown University generally will offer amnesty to Complainants, Respondents, reporting parties, and witnesses who disclose participating in activities that do not adhere to required COVID-19 requirements such as social distancing, use of face coverings, and other practices to reduce the spread of infectious disease when making a report of Prohibited Conduct or participating in a complaint procedure associated with this policy unless the University determines that there was malicious intent. Although amnesty

safeguards the individual from a disciplinary notation or finding of responsible for a policy violation, it does not exempt the University from taking appropriate action to address the conduct and/or mitigate future violations.

### **3.2 Academic Freedom**

Brown University is committed to the principles of free inquiry and expression. Vigorous discussion and debate are fundamental to this commitment, and this policy is not intended to restrict teaching methods. Offensiveness of inquiry or expression, standing alone, is not sufficient to constitute Prohibited Conduct. The action must be sufficiently severe, pervasive, and objectively offensive to unreasonably interfere with an individual's ability to participate in employment or educational programs and activities. Such behavior that violates this policy compromises Brown University's integrity and tradition of intellectual freedom and will not be tolerated.

### **3.3 Confidentiality and Privacy**

#### **3.3.1 Confidentiality**

Confidentiality is a legal concept prohibiting designated campus or community professionals from revealing identifiable information shared by an individual to any other person without express permission of the individual, or as otherwise permitted or required by law. Those campus and community professionals who maintain information confidentially are:

- Health care providers in Brown University Health Services including EMTs,
- Clinicians in Counseling and Psychological Services (CAPS),
- the Sexual Harassment and Assault Resources and Education (SHARE) Advocate(s),
- Ordained clergy who have privileged confidentiality that is recognized by Rhode Island state law.

These individuals are prohibited from breaking confidentiality unless (i.) given permission to do so by the person who disclosed the information; (ii.) there is an imminent threat of harm to self or others; (iii.) the conduct involves suspected abuse of a minor under the age of 18; or (iv.) as otherwise required or permitted by law or court order.

#### **3.3.2 Privacy**

Privacy means that information related to a report of Prohibited Conduct will be treated with the utmost discretion and will be shared only with a limited circle of individuals who "need to know" in order to assist in the review, investigation, and resolution of the report, and/or other disclosures necessary to fulfill University operations.

### **3.4 Conflict of Interest**

The [Brown University Conflict of Interest and Commitment Policy](#) and its related guidelines apply to all members of the Brown community and to all processes and procedures, including all investigative and disciplinary procedures in place to support and implement this policy. A conflict of interest may arise when a member of the Brown community may be able to use the authority of their position to influence a University decision, action, or outcome with regard to the implementation and enforcement of this policy, including associated investigative and disciplinary procedures. It is the responsibility of all members of the Brown community involved in any aspect of a report of Prohibited Conduct to read the University's Conflict of Interest and Commitment Policy and to disclose potential or actual conflicts as they arise to Title IX Program Officer or University Human Resources for employees.

### **3.5 Training and Education**

As part of its commitment to the prevention of Prohibited Conduct, Brown University offers education and awareness programs to bring awareness to and reduce the occurrence of Prohibited Conduct. Incoming Students and new Faculty and Staff receive prevention and awareness programming as a requirement of their orientation.

The Title IX Program Officer and investigators receive annual training on identifying and mitigating implicit and explicit bias, the definitions of Prohibited Conduct, the scope of a recipients education program and activities, how to conduct investigations, and managing a complaint resolution process including hearings, appeals, and informal resolution processes.

The Title IX Council, Hearing Panelist, and Hearing Officers receives annual training from the Title IX and Gender Equity Office to hear cases on conduct prohibited by this policy. The training provides an overview of identifying and mitigating implicit and explicit bias, applying the preponderance of evidence standard, the definition of Prohibited Conduct and understanding key concepts such as consent, incapacitation, and hostile environment. The training also strengthens panelist skills in asking questions, reviewing the

investigation report, and determining discipline.

#### 4.0 Definitions

For the purpose of this policy, the terms below have the following definitions:

**Advisor:** An adviser is an individual of the Complainant's or Respondent's choosing, including an attorney, to provide support during the complaint process. *More on the role and responsibility of an adviser can be found in the Sexual and Gender-based Misconduct Complaint Procedure.*

**Administrative Leave:** Administrative leave is the process where the institution places an Employee on an interim work, supervision, leadership, or teaching suspension after the filing of a Formal Complaint against the Employee.

**Coercion:** Coercion is verbal and/or physical conduct, including intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate harm and that is employed to compel someone to engage in sexual contact.

**Complainant:** A Complainant is the individual(s) who is alleged to be the victim of behavior that could constitute Prohibited Conduct. A Complainant seeking to use the Sexual and Gender-based Misconduct Complaint Procedure associated with this policy must have been participating in or attempting to participate in an educational program, employment, or activity of Brown at the time in which the alleged prohibited conduct occurred.

**Consent:** Consent is an affirmative and willing agreement to engage in specific forms of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely and affirmatively chosen to engage in sexual contact. Consent cannot be obtained through: (1) the use of coercion or force or (2) by taking advantage of the incapacitation of another individual.

Silence, passivity, incapacitation from alcohol or drugs, or the absence of resistance does not imply consent. It is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and clarifies the other's willingness to continue.

Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must cease. Prior consent does not imply current or future consent; even in the context of an ongoing relationship, consent must be sought and freely given for each instance of sexual contact. An essential element of consent is that it be freely given. Freely given consent might not be present, or may not even be possible, in relationships of a sexual or intimate nature between individuals where one individual has power, supervision, or authority over another.

In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances, including but not limited to the extent to which a Complainant or reporting party affirmatively uses words or actions indicating a willingness to engage in sexual contact, free from coercion; whether a reasonable person in the Respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the Respondent, demonstrating incapacitation.

#### Covered Persons:

- **Employees:** Individuals employed by Brown University, including faculty, affiliates, visiting faculty, postdoctoral fellows, and all staff (including all exempt and non-exempt, bargaining unit, and senior administrative positions), as well as those physicians and health scientists who are not employed by Brown University but have Brown University faculty, affiliate, postdoctoral, or house staff appointments for the purpose of teaching and/or research in the Division of Biology and Medicine.
- **Students:** Individuals enrolled in the College, the Graduate School, the Warren Alpert Medical School, the School of Public Health, the School of Engineering, and/or the School of Professional Studies.

**Discipline:** Discipline is a consequence, punishment, or penalty rendered as a result of a finding of responsibility for a policy violation.

**Emergency Removal:** Emergency removal is the process where the institution places a Respondent on an interim suspension, interim leave of absence, and/or interim removal from campus. The Title IX Program Officer will bring reports that may necessitate an

emergency removal to the Threat Assessment Team in the case involving Student Respondents, or convene a risk assessment group for cases involving Employee Respondents to determine whether there is reasonable cause to believe that the Prohibited Conduct is likely to continue and/or the Respondent poses a significant threat of harm to the health, safety, and welfare of others or the University community.

If the Threat Assessment Team determines that an emergency removal of a student is warranted, it will recommend that action to the Associate Vice President for Campus Life and Dean of Students who will decide whether to implement the emergency removal. Emergency removals of a student can be appealed to the Vice President of Campus Life. Brown may remove a student on an emergency basis with or without the completion of a complaint resolution process.

**Force:** Force is the use or threat of physical violence to overcome an individual's freedom of will to choose whether or not to participate in sexual contact.

**Formal Complaint:** A written and signed document submitted by a Complainant (or the Title IX Program Officer in lieu of a Complainant) alleging that a Covered Person has engaged in conduct prohibited by this policy. A Formal Complaint should include identities of the parties involved (if known), the Prohibited Conduct alleged, the date and location of the alleged incident (if known), and the details of the incident. The Formal Complaint will be shared the Respondent and the investigator upon the initiation of an investigation.

**Incapacitation:** An individual who is incapacitated lacks the ability to make informed judgments and cannot consent to sexual contact. Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act.

Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication. Where alcohol or other drugs are involved, evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's: decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.

**Interim Action:** A course of action taken by the University in response to a report of Prohibited Conduct. These measures may be both restorative (designed to address a Complainant's safety and well-being and continued access to educational opportunities) and remedial (involving action against a Respondent without unreasonably burdening a Respondent.) Interim actions may include housing relocation, on-campus housing restriction, change in work location or modification of work hours, restricted access to certain buildings or locations of campus, course reassignment or shift to remote course access, interim suspension and/or interim removal from campus, or interim administrative leave of absence. Interim action may be taken with or without a formal complaint or the implementation of a complaint resolution process and are individualized to protect the safety of all parties, the broader campus community, and/or prevent future Prohibited Conduct.

**Prohibited Conduct:** Includes Dating Violence, Domestic Violence, Gender-Based Harassment, Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct, Retaliation, Sexual Assault (Rape, Fondling, Incest, Statutory Rape), Sexual Exploitation, Sexual Harassment, and Stalking.

- **Dating Violence:** Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. This definition is prescribed by the 2014 Violence Against Women's Act as defined in the Uniform Crime Reporting (UCR) Program's National Incident-Based Reporting System (NIBRS).
- **Domestic Violence:** Domestic violence is violence committed (i.) by a current or former spouse or intimate partner of the victim; (ii.) by a person with whom the victim shares a child in common; (iii.) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (iv.) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (v.) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Domestic violence includes, but is not limited to, physical, sexual, emotional, economic, and/or psychological actions or threats of action, including threatening to reveal personal or confidential information (including, but not limited, to information regarding one's

gender identity and/or sexual orientation), that are intimidating, frightening, terrorizing, or threatening. Prohibited Conduct under this definition includes threats of violence or harm to one's self, one's family member(s) or friends, and/or one's pet. This definition is prescribed by the 2014 Violence Against Women's Act as defined in the Uniform Crime Reporting (UCR) Program's National Incident-Based Reporting System (NIBRS).

- **Gender-Based Harassment:** Unwelcome action based on actual or perceived sex or gender, gender identity, gender expression, or sexual orientation, whether verbal or non-verbal, graphic, physical, or otherwise that has the purpose of unreasonably interfering with the learning, working, or living environment; in other words, the behavior is sufficiently severe or pervasive and objectively offensive that it denies the target(s) equal access to the programs and activities of Brown (Hostile Environment).
- **Hostile Environment:** A hostile environment is one that denies or interferes with an individual or group's access to the programs and activities of Brown. A hostile environment is created when (i.) enduring the hostile conduct based on gender, gender identity, or sexual orientation that becomes a condition of the continued living, working, or social environment, or (ii.) the conduct is sufficiently severe or pervasive, and objectively offensive to create an environment that a reasonable person would consider intimidating, hostile, or abusive.

Slight, offensive comments, and isolated incidents (unless extremely serious) typically do not rise to the level of a policy violation unless the effects associated with the offensive comment go beyond being uncomfortable, embarrassed, or offended.

In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including but not limited to:

- The frequency, nature, and severity of the conduct;
  - Public nature of the conduct;
  - Whether the conduct was physically threatening;
  - The effect of the conduct on the Complainant's mental and emotional state;
  - Whether the conduct was directed at more than one person;
  - Whether the conduct arose in the context of other unlawful discriminatory conduct; and
  - Whether the conduct implicates concerns related to academic freedom or protected speech.
- **Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct:** The provision of alcohol and/or other drugs to an individual for the purpose of committing or facilitating Prohibited Conduct under this policy is also Prohibited Conduct. Such behavior may include provision of a drink or food which contains alcohol and/or other drugs without the knowledge of the individual to whom it is being provided or other actions taken with the intention of impairing the senses, judgment, and/or physical and mental ability of another person in order to engage in other forms of Prohibited Conduct. An individual does not have to engage in sexual activity with another person to be found responsible for the prohibited provision of alcohol and/or other drugs.
  - **Retaliation:** Retaliation is any action, statement, or behavior meant as reprisal or retribution against an individual in response to the individual's good-faith report or participation in a proceeding related to this policy. Any retaliatory action taken directly or indirectly against a person who has made a report, filed a complaint, or participated in an investigation is prohibited.

Retaliation includes, but is not limited to, intimidation, threats, harassment, and other conduct that would discourage a reasonable person from engaging in activity protected under this policy, such as seeking services, receiving protective measures and accommodations, and/or reporting Prohibited Conduct. This prohibition against retaliation protects Complainants, Respondents, reporting parties, witnesses, hearing panelists, decision-makers, advisors, investigators, and other individuals who provide information relating to a Title IX investigation or participate in a complaint process associated with this policy.

- **Sexual Assault:** Sexual assault is defined as a sexual act directed against another person, without the consent of the other person, including instances where the target is incapable of giving consent due to age or temporary or permanent mental or physical incapacity. Sexual Assault is the umbrella term for actions that constitute rape, fondling, incest, and statutory rape. *This definition is prescribed by the 2014 Violence Against Women's Act as defined in the Uniform Crime Reporting (UCR) Program's National Incident-Based Reporting System (NIBRS).*
  - **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - **Fondling:** Forcible or non-forcible touching of the private body part (breast, buttocks, groin, genital, or other intimate part) of another person for the purpose of sexual gratification without consent.
  - **Rape:** Attempted or completed anal or vaginal penetration of another person, no matter how slight, by a body part or object without consent and/or completed or attempted oral penetration by a sex organ of another person.
  - **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent.



- **Sexual Exploitation:** Sexual Exploitation is purposefully taking sexual advantage of another person without consent. It may involve use of one's own or another individual's nudity or sexuality. Examples of Sexual Exploitation include, but are not limited to:
  - Voyeurism (such as watching or taking pictures, videos, or audio recordings of another person in a state of undress or of another person engaging in a sexual act without the consent of all parties);
  - Disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without the person's consent;
  - Exposing one's genitals to another person without consent;
  - Prostituting another individual; or
  - Knowingly exposing another individual to a sexually transmitted infection without the other individual's knowledge and consent.
- **Sexual Harassment:** Conduct on the basis of sex that satisfies one or more of the following:
  - (i.) An employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (quid pro quo); and/or
  - (ii.) Unwelcome conduct determined by a reasonable person to be so severe or pervasive and objectively offensive that it effectively denies a person equal access to the programs and activities of Brown (Hostile Environment).
- **Stalking:** Stalking is a course of conduct on the basis of sex or gender directed at a specific person that would cause a reasonable person to (i.) fear for the person's safety or the safety of others; or (ii.) suffer substantial emotional distress.

For the purposes of this policy, Stalking refers to actions "on the basis of sex or gender" that would constitute Sexual or Gender-Based Harassment such as surveillance of a former intimate partner.

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.

Stalking includes the concepts of cyber-stalking, a form of stalking through electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact. This definition is prescribed by the 2014 Violence Against Women's Act as defined in the Uniform Crime Reporting (UCR) Program's National Incident-Based Reporting System (NIBRS).

**Respondent:** An individual(s) who has been reported to be the perpetrator of behavior that could constitute Prohibited Conduct.

**Report:** Information shared with the Title IX Office that includes details of alleged Prohibited Conduct. A report is made when a Complainant, reporting party, or third party seeks information, support measures, or informs the University of Prohibited Conduct, but such party is not making a Formal Complaint or pursuing a complaint resolution process to address the alleged Prohibited Conduct.

**Support Measures:** Non-disciplinary, non-punitive measures provided to a Complainant or Respondent designed to restore or preserve equal access to Brown's programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties and deter future prohibited conduct. The Title IX Program Officer will oversee the implementation of support measures that are individualized to respond to the effects of the Prohibited Conduct, and that are appropriate, reasonably available, and free of charge. Support measures may include a no-contact order, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, changes in work or housing locations, leave of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Use of support measures is private and is available with or without a Formal Complaint.

Brown will also provide reasonably available support measures for third-party reporters, provided that the accommodations are within the scope of that individual's relationship to Brown University.

## 5.0 Responsibilities

All individuals to whom this policy applies are responsible for becoming familiar with and following this policy. University supervisors are responsible for promoting the understanding of this policy and for taking appropriate steps to help ensure compliance with it.

**Title IX Program Officer:** The Title IX Program Officer is the Title IX Coordinator for the University and oversees the review of reports and Formal Complaints associated with this policy. The Title IX Program Officer oversees the implementation of interim actions, support measures, the investigation process, and administration of the hearings associated with alleged violations of this policy. The Title IX Program Officer is also charged with providing education and training as well as tracking and reporting annually on all incidents in violation of this policy. More on the Title IX Program Officer can be found [here](#).

## 6.0 Consequences for Violating this Policy

Failure to comply with this and related policies is subject to disciplinary action, up to and including suspension without pay, or termination of employment or association with the University, in accordance with applicable (e.g., staff, faculty, student) disciplinary procedures.

The University has developed the Sexual and Gender-based Misconduct Complaint Procedure to investigate an allegation that a Covered Person has committed an act of Prohibited Conduct in this policy.

A Student or Employee determined to be responsible for an act of Prohibited Conduct in violation of this policy is subject to disciplinary action. Disciplinary action may include, but not be limited to, one or more of the following:

- reprimand (written or verbal)
- mandated training
- restitution
- permanent or temporary academic or work related reassignments
- change in academic or social status or standing, limiting ability to serve in leadership roles, access funding, or serve as a representative for the University on or off-campus
- probation with or without restrictions
- administrative leave without pay
- temporary (suspension or administrative leave) or permanent (expulsion or termination) separation from Brown University.

Applicants, Affiliates, Contractors, or Invitees who violate this policy may have their relationship with Brown University terminated and/or their privilege of being on Brown University premises withdrawn.

**Academic Transcripts:** Discipline of suspension and expulsion include a permanent notation on the student's official academic transcript that is maintained by the Office of the Registrar. A Respondent's access to a copy of their academic transcript will be suspended and the University will not release a copy of the Respondent's academic transcript to any other institution or third party during an investigation and adjudication of a Formal Complaint. Requests to release an academic transcript must be submitted to the Title IX Program Officer, who will determine (i.) whether to release the academic transcript; and (ii.) whether a notation indicating that serious disciplinary investigation and/or charges are pending should be included on the academic transcript.

**Leave of absence with a formal complaint pending:** If a Complainant or Respondent takes a leave of absence from Brown after the University has given notice to the Respondent but prior to a finding or final resolution, the complaint resolution process may be put on hold or continue as appropriate. The Title IX Program Officer will make an individualized assessment to determine whether to hold or continue with the complaint resolution process.

If the process is held due to the leave of absence of a Student Respondent, their transcript will be held in accordance with the process provided for in Section 6.1 above and a temporary entry may be made on their academic transcript indicating that the Student has taken a leave of absence with serious disciplinary investigation or charges pending.

If the process is held due to the leave of absence of an Employee Respondent, a temporary entry will be made in their personnel file that indicates that the employee has taken a leave of absence with disciplinary charges pending.

**Withdrawal/Permanent separation with a formal complaint pending:** The University will assess the allegations and make an individualized assessment to determine whether to continue or end the complaint resolution process upon the separation from the University of the Complainant and/or Respondent. A Complainant or Respondent may appeal a decision to dismiss (close) a Formal Complaint. The Director of Equal Opportunity and Diversity will hear appeals of dismissal decisions.

- If a Complainant withdraws or separates from Brown after the University has given notice to the Respondent but prior to a finding, the University may dismiss the Formal Complaint or continue on as the Complainant.
- If a Student Respondent withdraws from Brown after the University has given notice to the Respondent but prior to a finding or final resolution, the Formal Complaint may be dismissed and an entry will be made on their academic transcript maintained by the Office of the Registrar that indicates the Student has withdrawn with a disciplinary investigation and/or charges pending.
- If an Employee Respondent separates or is terminated from Brown after the University has given notice to the Respondent but prior to disciplinary a finding or final resolution, the Formal Complaint may be dismissed and an entry will be made in their personnel file that indicates that the employee separated with disciplinary investigation and/or charges pending or employment terminated with a disciplinary investigation and/or charges pending.
- If a Complainant or Respondent withdraws or permanently separates from the University after submitting an appeal on the finding and/or sanction of a hearing panel but before the appeal is decided, the University will dismiss the appeal and uphold the finding of

the hearing panel as the final resolution to the complaint. The University may make a retroactive entry on the Respondent's academic transcript or the employee's personnel file indicating the original sanction issued by the hearing panel (if applicable).

## 7.0 Related Information

Brown University is a community in which employees are encouraged to share workplace concerns with University leadership. Additionally, [Brown's Anonymous Reporting Hotline](#) allows anonymous and confidential reporting on matters of concern [online](#) or by phone (877-318-9184).

The following information complements and supplements this document. The information is intended to help explain this policy and is not an all-inclusive list of policies, procedures, laws and requirements.

### 7.1 Related Policies:

- [Corporation Policy Statement on Equal Opportunity, Non-Discrimination and Affirmative Action](#)
  - [Nondiscrimination and Anti-Harassment Policy](#)

### 7.2 Related Procedures:

- [Title IX Grievance Procedure](#)
- Sexual and Gender-Based Misconduct Complaint Procedure
- Discrimination and Harassment Complaint Resolution SOP

### 7.3 Related Forms: N/A

### 7.4 Frequently Asked Questions (FAQs): N/A

### 7.5 Other Related Information: Rhode Island State Law

Behavior that violates this policy also may violate the laws of the local jurisdiction in which the incident occurred and subject a Respondent to criminal prosecution by the applicable jurisdiction. An individual can choose to make a report to external law enforcement at any time, and doing so does not preclude the individual from making a report to the University. Both processes can be pursued if an individual chooses to do so. Brown University encourages individuals to report an incident which may be a violation of Rhode Island State Law to external law enforcement. Prompt reporting to external law enforcement is important in a criminal prosecution.

- First degree Sexual Assault ([RIGL § 11-37-2](#)).
- Second degree Sexual Assault ([RIGL § 11-37-4](#)).
- Third Degree Sexual Assault ([RIGL § 11-37-6](#)).
- Stalking ([RIGL § 11-59-2](#))
- Cyberstalking and Cyberharassment ([RIGL § 11-52-4.2](#))

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