

# BABSON COLLEGE

## Title IX Policy

Effective August 14, 2020, as last amended July 30, 2024

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## I. Purpose of this Policy

Babson College (the “College”) is committed to preserving a learning and working environment that values diversity and inclusion, and promotes the health and safety of all community members. Consistent with these values and with Babson’s [Notice of Non-Discrimination](#), Babson takes seriously its obligation to prevent and respond to allegations of sexual harassment and other discrimination and harassment, set forth in Title IX of the Education Amendment Act of 1972 (“Title IX”), the Violence Against Women Act and its Reauthorization, the Campus SaVE Act, the Clery Act, Title VII of the Civil Rights Act of 1964, Massachusetts General Laws C.151B, Massachusetts’ Campus Sexual Violence Act of 2021, and other related laws.

This Title IX Policy (“Babson’s TIX Policy” or “Policy”) was adopted to comply with federal regulations the U.S. Department of Education issued effective August 14, 2020.<sup>1</sup> Those regulations require colleges to follow prescribed procedures, including a live hearing, when addressing formal complaints from someone participating or attempting to participate in Babson’s educational programs or activities who reports that they were subjected to conduct defined in those regulations as Title IX Prohibited Conduct.

Title IX Prohibited Conduct is considered by Babson to be one of the most serious violations of the College’s values and is not tolerated by the College. Prior to August 2020, Babson had addressed allegations that community members engaged in sex discrimination which violates Title IX under the College’s Gender-Based Misconduct Policies<sup>2</sup>, which prohibit all Babson community members from engaging in certain types of discrimination based on someone’s sex, gender identity, gender expression, or sexual orientation, regardless of where such conduct occurred or complainant’s status.

In compliance with federal law, Babson now applies the definitions and processes of this Title IX Policy to address reports from complainants who allege that while participating or attempting to participate in Babson’s educational programs or activities, they were harmed by respondents who engaged in Title IX Prohibited Conduct on campus or at facilities owned or controlled by the College within the United States. The 2020 federal regulations require prescriptive definitions for some of these terms; therefore careful attention should be paid to Section III (Definitions) and Section IV (Prohibited Conduct) which incorporate these federally required definitions as applied in this Policy. However, consistent with Babson’s community values, the College will continue to apply the processes and terms of Babson’s Gender-Based Misconduct Policies to address reports that any Babson community members engaged in conduct that Babson defines as prohibited gender-based misconduct, and which does not fall within the scope and jurisdiction of Babson’s Title IX Policy.

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<sup>1</sup> On April 19, 2024, new Title IX Final Rules (“2024 regulations”) were released with an effective date of August 1, 2024. However, Babson College is subject to a federal court injunction issued in July 2024 prohibiting enforcement of the 2024 regulations. As a result, Babson will continue to operate pursuant to this Policy in accordance with 2020 Title IX regulations until and unless no longer subject to such injunction.

<sup>2</sup> [Babson’s Gender-Based Misconduct Policy for Students](#) applies when a respondent is a Babson student, whereas [Babson’s Gender-Based Misconduct Policy for Faculty, Staff, and Affiliated Persons](#) applies when the respondent’s primary status at Babson is as a non-student.

## II. Scope and Jurisdiction of Babson's Title IX Policy

Babson's Title IX Policy informs members of the Babson College community about their individual, organizational, and community rights and responsibilities regarding Title IX Prohibited Conduct; resources available to assist members of the Babson College community who have experienced Title IX Prohibited Conduct; and the College's response to such concerns.

The scope and jurisdiction of Babson's Title IX Policy is limited to complaints Babson College receives from a person who is participating or attempting to participate in College programs or activities that are located in the United States and of which Babson exercised substantial control at the time of the Prohibited Conduct.

## III. Definitions

***Actual Knowledge or Notice to the College:*** Babson has actual notice of alleged Title IX Prohibited Conduct only if a report concerning the conduct is made to Babson's Title IX Coordinator, a Deputy Title IX Coordinator, or to one of the following Babson Officials who have authority to institute corrective measures on Babson's behalf: Babson's Vice President for Human Resources, Donna Bonaparte; Dean of Faculty, Donna Stoddard; or Vice President of Learner Success and Dean of Campus Life, Caitlin Capozzi.

***Advisor:*** A person chosen by a party, who may but need not be an attorney, who provides support and advice to the party during any stage of the grievance process. Any person serving as a party's advisor is prohibited from publicly disclosing private information, including information protected under the Family Educational Rights and Privacy Act ("FERPA") or other state or federal laws, which they learn during the grievance process outlined in this Policy, and are expected to maintain the privacy of all parties and witnesses to the greatest extent possible. If any advisor is concerned about violating this assurance of privacy to gather evidence, they should raise such concerns with the Title IX Coordinator immediately.

***Complainant:*** A person who, at the time they file a formal Complaint, is currently participating in, or attempting to participate in, Babson College's domestic educational programs or activities and who alleges they experienced Title IX Prohibited Conduct. If an individual is a student or employee at another institution and makes an allegation against a respondent who is a student or employee at Babson College, the Title IX Coordinator may exercise discretion in signing a complaint for the party alleged to have experienced Title IX Prohibited Conduct. In such situations, the parties will be duly noticed in accordance with this Policy.

***Confidential Resources:*** Individuals with a statutory privilege (licensed psychologists, mental health counselors, social workers, clergy and designated medical personnel) and who are acting within that privileged role, as well as Babson employees who have been identified by the College as confidential resources for students and are not required to report information to Babson's Title IX Coordinator. Pursuant to a Massachusetts Campus Sexual Violence Act (effective 08/01/21), Babson has designated Babson Wellness and Prevention Services ([wellness@babson.edu](mailto:wellness@babson.edu)) and

Counseling and Psychological Services ([caps@babson.edu](mailto:caps@babson.edu)) as Confidential Resource Providers who can provide students with information about: reporting options for those impacted by gender-based misconduct, available counseling and medical and health services on and off campus, available supportive measures at Babson, Babson's grievance processes to address complaints alleging both Title IX Prohibited Conduct or gender-based misconduct outside the scope and jurisdiction of Title IX, and the legal process for requesting court ordered legal protection, or reporting potential crimes to law enforcement. Babson has designated the College's Senior Director of Belonging and Inclusion and College Chaplain ([dratley@babson.edu](mailto:dratley@babson.edu)) as a Confidential Resource Provider who can provide Babson employees and students with such confidential support and assistance.

**Consent:** Effective Consent is consent that is informed, knowing **and** voluntary. Consent to engage in any mutually agreed-upon sexual activity can be communicated through mutually understandable words and/or through actions. Consent obtained as a result of physical force, threats, intimidating behavior, duress, fraud or coercion is not Effective Consent.

Effective Consent cannot be obtained from: 1) minors (in Massachusetts, persons not yet sixteen (16) years of age); 2) individuals with mental or intellectual disabilities which render them unable to understand the behavior or its consequences; 3) persons who are unconscious, asleep, or unaware; or 4) persons who are in a state of incapacitation as a result of alcohol or other drug consumption (whether voluntary or involuntary). A person who engages in sexual activity with any other person whom they know, or should reasonably have known, is unable to provide consent lacks consent as defined under this Policy. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the nature (i.e., who, what, when, where, why or how) of their sexual interaction.

In addition, it is important to understand that:

- Effective Consent is mutually understandable when a reasonable person would consider the words and/or actions of the parties to have expressed a mutually understandable agreement to do the same thing, in the same way, at the same time, with one another.
- In the absence of mutually understandable words or actions, it is the responsibility of the initiator, or the person who seeks to engage in the specific sexual activity, to make sure that they have Effective Consent from their partner(s) prior to initiating sexual activity.
- Effective Consent is active, not passive.
- Effective Consent to one form of sexual activity does not constitute Effective Consent to other forms of sexual activity. Effective Consent must be obtained with respect to each form of sexual activity in which parties intend to engage.
- The person who is the object of sexual advances is not required to resist physically or otherwise. The absence of resistance will not, in itself, suffice to demonstrate Effective Consent.
- Silence, previous sexual relationships or experiences, and/or a current relationship may not, in themselves, be taken to demonstrate Effective Consent.
- Intentional use of alcohol or other drugs does not excuse a violation of this Policy.
- Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly. Once consent is withdrawn for some or all sexual activity, such activity must cease without delay.

- Coercion is unreasonable pressure for sexual activity. Seeking to persuade someone to engage in either sexual activity in general, or any particular sexual acts, after they have made clear they do not wish to do so may be considered coercive. In assessing whether coercion was used, the frequency, duration, and intensity of the pressure applied will be taken into consideration.

**Educational program or activity:** Locations, events, or circumstances in which the College exercises substantial control over both the respondent and the context in which the conduct occurs, as well as in any building owned or controlled by a student organization that is officially recognized by the College.

**Formal complaint:** A document filed by a complainant alleging that a respondent engaged in Title IX Prohibited Conduct and requesting that the College investigate the allegation. In atypical situations, the Title IX Coordinator may sign a formal complaint in place of a complainant. If the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a party to a matter and any party who has standing to be a complainant under this Policy in the matter shall receive the rights afforded to complainants under this Policy. Similarly, the respondent will receive the name of the party alleged to have experienced Title IX Prohibited Conduct and other information that constitutes requisite notice.

**Grievance process:** The process outlined in this Policy to respond to formal complaints.

**Parties:** Both the complainant(s) and the respondent(s).

**Prohibited Conduct:** See section IV below.

**Relevant:** As used in these procedures, “relevant” is any evidence that a reasonable person could conclude makes a material disputed fact or event more or less likely to be true. Information about a complainant’s sexual predisposition or prior sexual behavior is generally not considered relevant and will not be considered in Babson’s grievance process. An example where information about past sexual behavior may be considered relevant is if offered to prove that someone other than respondent committed the conduct.

**Respondent:** A Babson community member who is reported to be the perpetrator of conduct that could constitute Title IX Prohibited Conduct or gender-based misconduct under Babson Policies.

**Sanctions:** Punitive or educational measures imposed by the College in response to a determination that a respondent has violated this or another Babson College policy. Sanctions may include but are not limited to: expulsion, termination, suspension, probation, reprimand, warning, restitution, education/counseling requirement; restrictions on participation in a program or activity; loss of privileges; loss of leadership opportunities or positions; housing restriction; and/or restrictions on employment by the College. If a respondent is found to have violated Babson’s Title IX Policy, a determination of appropriate sanctions will include consideration of the nature and circumstances of the misconduct; the impact of the misconduct on the complainant, and/or on others in the College community; the disciplinary history of the respondent; and any other mitigating or aggravating circumstances. Transcript notations for

sanctions issued to students determined to have violated this TIX Policy will be consistent with Babson's policy regarding transcript notations contained in Babson's [Community Code of Student Conduct](#).

***Supportive Measures:*** Individualized services designed to restore or preserve equal access to Babson College's education programs or activities, which may be offered to the parties at the discretion of the College, without cost to the party receiving the support, regardless of whether a formal complaint has been filed. In any cases where a formal complaint has been filed, the College will equitably offer supportive measures to both parties, as appropriate, and balance the impact of any such measures on the parties so as not to unreasonably burden either party. In cases where no formal complaint has been filed, and the reportedly harmed party does not wish for the accused to be made aware of any concerns, the College may be limited in its ability to offer supportive measures to the subject of the allegations. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services or transportation assistance, No Contact Orders, No Trespass Orders, changes in work or housing locations, removal of contact information listed in the College Directory, leaves of absence, increased security and monitoring of certain areas of the campus, referral for an evidence collection exam at an appropriate hospital in cases of recent sexual violence, and other similar measures. To the extent possible, Babson College will generally maintain privacy regarding supportive measures provided to either party. Privacy may not be possible regarding supportive measures when it is necessary to share limited information in order to provide supportive measures. For example, the issuance of No Contact Orders necessarily requires that all parties to the Orders be notified of the directive.

#### **IV. Prohibited Conduct**

In accordance with Federal regulations, the following conduct is prohibited under this Title IX Policy:

##### **A. Title IX Sexual Harassment**

Title IX Sexual Harassment includes conduct on the basis of sex that meets one or more of the following definitions:

- 1) An employee of Babson College conditioning the provision of any educational benefit or service on a person's participation in unwelcome sexual conduct ("quid pro quo" sexual harassment); or
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Babson College's educational programs or activities. Note that determinations that an individual committed sexual assault, dating violence, domestic violence, or stalking, as defined in this section, may constitute one form of unwelcome conduct and/or may be considered with other forms of unwelcome conduct.

## **B. Sexual Assault**

Any sexual act directed against another person, without that person's consent, including when the person is incapable of giving consent. This includes the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without consent. This also includes touching the private body parts of another person for the purpose of sexual gratification, without consent.

## **C. Dating Violence**

Violence committed by a person who is or has been in a romantic or intimate relationship 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.

## **D. Domestic Violence**

Violence committed by: a current or former spouse or intimate partner of the victim, or someone similarly situated; a person with whom the victim shares a child in common; or 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 location in which the crime of violence occurred.

## **E. Stalking**

Engaging in two or more direct or indirect acts, such as following, monitoring, observing, surveilling, threatening, or communicating to or about a person, directed at that specific person, that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

## **F. Retaliation**

An intentional adverse action taken against another person based on their participation in a protected activity under this Policy. Retaliation can include intentional action taken by a party or allied third party as reprisal for participating in a protected activity or for supporting someone who engages in protected activity under this Policy. Retaliation may take the form of words or actions that constitute intimidation, threats, coercion, or other adverse action. However, to constitute retaliation, the words or actions must be sufficiently adverse to deter a reasonable person from reporting or assisting in reporting Prohibited Conduct, seeking protections under this Policy, or participating in a proceeding under this Policy. For example, words or actions that are only a minor annoyance or lack of good manners do not constitute retaliation. Retaliation allegations may be consolidated with other forms of Title IX Prohibited Conduct if the facts and circumstances significantly overlap. If the facts and circumstances do not significantly overlap, then the College retains discretion to adjudicate the allegations under a different but appropriate policy. For example, if a respondent retaliates against a complainant with regard to the filing of a complaint, that behavior could be consolidated with the other prohibited conduct alleged,

provided appropriate notice is afforded. On the other hand, if the retaliatory conduct is committed by a party's friend who is not otherwise subject to a grievance under this Policy, that behavior could be adjudicated under another student or employee conduct policy which prohibits such behavior.

The College prohibits retaliation, as defined above, in any form against any person who seeks to report potential violations of this Title IX Policy, assist another person in reporting such potential violations, or participate in a grievance process under Babson's Title IX Policy. Retaliation is a violation of this Policy, even if the facts in a formal complaint alleging Title IX Prohibited Conduct are ultimately not proven by a preponderance of the evidence.

## **V. Resources, Emergency Assistance and Supportive Measures**

Babson offers resources and supportive measures to assist Babson students and employees who disclose they have experienced Title IX Prohibited Conduct, regardless of whether they choose to file a formal complaint under this Policy or participate in either a College investigation or hearing, or a criminal process.

The College encourages all individuals who have experienced sexual assault to promptly seek appropriate medical attention and to preserve any evidence. Confidential medical care is available whether or not an individual chooses to report the incident to the College or to an external law enforcement agency (e.g., the Wellesley Police Department). Information about College confidential resources available to support students and employees, as well as free and confidential community resources available to assist anyone in obtaining medical care and preserving evidence, can be found [here](#).

Babson also operates a rape crisis hotline—the SAFE Hotline—that can be accessed by Babson students 24/7/365. The hotline is staffed by trained advocates who are ready to help survivors, friends, or campus partners. The SAFE Hotline is available to help students access services without barrier. If you, or a friend or loved one, needs confidential on-call assistance, please do not hesitate to call 781-239-7233 (SAFE) or 7233 from an on-campus landline.

Either Babson's Title IX Coordinator, or Babson's designated Confidential Resource Providers for students ([wellness@babson.edu](mailto:wellness@babson.edu) or [caps@babson.edu](mailto:caps@babson.edu)) or for employees ([dratley@babson.edu](mailto:dratley@babson.edu)), can provide the following support to Babson students or employees who reportedly have experienced Title IX prohibited conduct:

- Inform them of, and connect them to, available victim advocacy, legal assistance, academic support, counseling, accessibility, and health or mental health services, both on and off campus;
- Assist them in obtaining a Babson non-disciplinary No Contact Order (NCO) and/or stay-away provisions if the person with whom they wish to avoid contact is affiliated with the College and Babson's Title IX Coordinator or designee in their discretion determines issuance of a NCO is appropriate (e.g., if the person requesting a NCO reports experiencing continued contact from a Babson community member after requesting such

contact cease) and that issuance of a NCO and/or stay-away provisions would not unreasonably impair College operations or the rights of other community members;

- Assist them in requesting that Babson Public Safety issue a No Trespass Order to someone with whom they want to avoid contact (if the person with whom they want to avoid contact is not affiliated with the College and has no right to be on campus);
- Help arrange a change to a student's on-campus housing, an employee's working arrangements or a student's course schedules or adjustments for assignments or tests;
- Inform the student or employee of their right to report a crime to campus or local law enforcement and to seek protective orders through the courts – and provide them with assistance if they wish to do so.

*Note: Babson community members who have obtained a court issued protective order should promptly provide Babson Public Safety with a copy of any effective court issued protective orders, and inform Babson Public Safety if and when such orders are modified, extended or rescinded, so that Babson can enforce the orders.*

*Babson's Title IX Coordinator or the Office of Community Standards provides Babson Public Safety with copies of No Contact Orders (NCOs) issued by their offices.*

Supportive measures may be provided by Babson if requested by a Babson community member who reportedly experienced Title IX Prohibited Conduct, irrespective of whether the impacted individual requesting supportive measures reports a crime to law enforcement or files a formal complaint with the College under applicable College policies. If confidentiality is requested, supportive measures will be implemented as feasible while preserving the privacy of the impacted party to the extent possible.

Complainants who experienced Title IX Prohibited Conduct may also choose to take advantage of off-campus resources. Examples and contact information for both Babson and off-campus confidential resources in the Boston area are listed on [Babson's Title IX webpage](#). Off-campus counselors, advocates, and health care providers will generally maintain confidentiality and not share information with the College unless the individual requests the disclosure and signs a consent or waiver form.

While off-campus counselors and advocates may maintain an individual's confidentiality by not informing the College, they may have reporting or other obligations under applicable law. These may include making reports to governmental agencies in cases involving minors, persons with disabilities and the elderly; a requirement to provide testimony in response to a subpoena or court order; or where the individual is at risk of imminent harm to self or others.

## **VI. Reporting Options and Confidential Resources**

Babson encourages community members who have experienced any potential gender-based misconduct, whether or not the conduct is Prohibited Conduct under this Title IX Policy, to inform Babson's Title IX Coordinator, so that the Title IX Coordinator can offer appropriate supportive measures and information regarding available reporting options under applicable policies. However, the College also wants community members to be able to seek support from other persons who are trusted to them and in an environment that feels safe to them.

Recognizing that some individuals may wish to share their experiences with another person at the College without having those experiences reported to Babson's Title IX Coordinator or other administrators, the College has designated a limited number of College employees as "confidential resources" who can assist Babson students while keeping the student's experiences confidential.

Contact information for confidential resources Babson provides for its students and employees, as well as contact information for confidential community resources which are not affiliated with Babson, but are available to anyone who has been impacted by sexual assault or relationship violence, are listed on [Babson's Title IX website](#).

When a Babson designated confidential resource learns of potential Title IX Prohibited Conduct or other misconduct while performing their duties as a confidential resource, they will not share any identifiable information that was disclosed to them with the College or any other person, without that person's permission, unless:

- sharing information is necessary to address imminent risk of harm the person they are supporting, or to protect the safety of others who are at risk of imminent harm;
- they learn information involving abuse of minors, persons with disabilities and the elderly which they are legally required to report to government authorities; or
- if required by a valid subpoena or court order to provide testimony.

## **VII. Reporting Title IX Prohibited Conduct**

### ***A. Initial Report***

Any member of the Babson College community may report suspected Title IX Prohibited Conduct in person, by phone, by mail, or electronically, to Babson's Title IX Coordinator:

Betsy Rauch, Title IX Coordinator  
Horn Library office #329  
231 Forest Street  
Babson Park, MA 02457-0310  
[brauch1@babson.edu](mailto:brauch1@babson.edu) 781.239.5501

Reports may also be submitted to either of the College's two Deputy Title IX Coordinators, who will inform the Title IX Coordinator of any such reports they receive:

Josh Peipock, Deputy Title IX Coordinator for Campus Life  
Reynolds Campus Center, Suite 211  
[jpeipock@babson.edu](mailto:jpeipock@babson.edu)  
781.239.3891

Kate O’Leary, Deputy Title IX Coordinator for Human Resources  
Nichols Hall  
[koleary@babson.edu](mailto:koleary@babson.edu)  
781.239.4209

Reporting concerns to Babson’s Title IX Coordinator or a Deputy Title IX Coordinator does not obligate any person to engage in any type of process outlined in this Policy. Instead, a report gives an individual an opportunity to access supportive measures designed to provide assistance, and to learn about options for response such as filing a formal complaint under this Policy or other applicable College policies.

The Title IX Coordinator may share specific information related to such reports on a limited, need-to-know basis, such as in order to ensure that supportive measures or sanctions are put in place. The Title IX Coordinator will also annually review such information in any efforts to maintain a safe and secure campus environment or otherwise satisfy their general obligations under Title IX and the Clery Act.

Individuals may also [submit an anonymous report](#) to Babson’s Title IX Coordinator concerning Title IX Prohibited Conduct or other gender-based misconduct involving or impacting Babson community member(s) without disclosing their identity, identifying the respondent, or requesting any action. Anonymous reports can be filed by completing [this form](#), which also can be accessed on Babson’s Title IX webpage. However, if the College receives an anonymous report, depending on the level of information provided to the Title IX Coordinator about the alleged incident or the individual(s) involved, the College’s ability to respond to the report may be limited.

### ***B. Initial Response***

Upon receiving a report of alleged Prohibited Conduct under this Policy, the Title IX Coordinator will notify the reportedly impacted person(s) about the process for filing a formal complaint and about the availability of supportive measures, with or without filing a formal complaint. If appropriate, the Title IX Coordinator will also notify the reportedly impacted person(s) about their right to report, or decline to report, the matter to Babson College Public Safety and/or the appropriate law enforcement agency. Information on available resources, including but not limited to Babson Public Safety and other law enforcement, where Babson community members can seek support can be found on [Babson’s Title IX website](#).

### ***C. Emergency Removal and Interim Restrictions***

Individuals who are reported to have engaged in Title IX Prohibited Conduct are presumed by Babson to be not-responsible for violating College policy and will not be issued any disciplinary sanction unless they are found, though the processes set forth in this Policy, by a preponderance of the evidence to have violated such Policy. In rare instances, however, if the Title IX Coordinator conducts an individualized safety and risk analysis and, in consultation as appropriate with relevant College employees, deems a member of the Babson College community to pose an immediate threat to the physical health or safety of any other member of

the Babson College community arising from or closely related to the reported conduct at issue, that community member's access to College property, programs or activities may be restricted on an interim basis, pending final resolution of the grievance process under this Policy. Any such interim restriction taken by the College will not be considered or documented by the College as a disciplinary sanction, and any community member whose rights to access College property, programs or activities are restricted as an emergency safety measure shall be promptly advised in writing of their right to appeal the interim restriction decision and the procedures for doing so.

## **VIII. Procedures for Response to Formal Complaint of Title IX Prohibited Conduct**

### ***A. Formal Complaint***

#### **1. Notification**

The Title IX Coordinator will provide written notice to the known parties upon receiving a formal complaint. This notification will include:

- A copy or link to this Policy and procedures;
- A description of the alleged Title IX Prohibited Conduct and, if known, the identities of the parties involved, and the date, time, and location of the alleged incident(s);
- A statement that the respondent is presumed not responsible for the alleged conduct, and that a determination regarding responsibility will be made at the conclusion of the grievance process, applying the preponderance of evidence standard of proof;
- Notification to the parties that they may have one advisor of their choice who may be, but who is not required to be, an attorney to provide emotional support and advice to them at any stage of the grievance process;
- Notification to the parties of the prohibition on retaliation; and
- Notification to the parties of the duty of honesty (below).

The College reserves the right to consolidate cases in which there are one or more complainants and/or one or more respondents, as defined under this Policy. The College will consolidate cases where the allegations of Prohibited Conduct (as defined in Section IV) arise out of the same facts or circumstances. For example, if in the course of a single College-sponsored event a respondent is alleged to have committed any form of Prohibited Conduct against more than one complainant, the College may consolidate those complaints for investigation and adjudication under this Policy. If a case is consolidated, the College will consider individualized supportive measures, as appropriate, and will provide individual notice to each party. All parties are entitled to all forms of process set forth in this Policy and the College reserves the right to issue a single Investigative Report, hold a single hearing, and otherwise modify the Policy to ensure all parties are afforded equal protections.

#### **2. Assignment of Investigators**

The Title IX Coordinator will provide written notice to the parties identifying the person(s) appointed to investigate the matter. If either party believes an appointed investigator is biased or conflicted from fairly investigating this matter, they must timely notify the Title IX Coordinator

of such concerns with specificity and in writing within three (3) calendar days after being informed by the College of the investigator(s)' identity. Babson's Title IX Coordinator will consider the concerns and appoint different investigator(s) if the Title IX Coordinator deems necessary. The Title IX Coordinator may, in their discretion consult with other College staff, but the Title IX Coordinator's ultimate decision regarding the assignment of investigator(s) is final.

### 3. Dismissal

If a formal complaint is filed that does not allege Title IX Prohibited Conduct, as defined above, it must be dismissed under this Policy. Any allegation in a formal complaint that is dismissed because it does not constitute Title IX Prohibited Conduct or does not fall within the scope and jurisdiction of this Policy, may be addressed through another applicable College policy, such as Babson's Gender-Based Misconduct Policies, [Community Code of Student Conduct](#), or Employment Guidelines. If a formal complaint alleges that a respondent engaged in conduct that potentially violates both Babson's Title IX Policy and other College policies, Babson's Title IX Coordinator may within their discretion choose to resolve some or all charges that do not constitute Prohibited Conduct under Babson's Title IX Policy pursuant to the processes in Babson's Title IX Policy and will contemporaneously inform all parties of such determinations. This decision will be made at the outset of the notice of the complaint or as soon as reasonably practicable after the allegations become clear.

A formal complaint alleging Prohibited Conduct under this Policy may also be dismissed by the College's Title IX Coordinator, in whole or in part, at any time if:

- a complainant notifies the Title IX Coordinator in writing that they wish to withdraw the formal complaint or any allegation(s) contained in that formal complaint; or
- the Title IX Coordinator determines that specific circumstances will prevent the College from gathering sufficient information to reach a determination on the formal complaint, or any allegations contained in the formal complaint.

Written notice will be provided to the parties, informing them of the reasons for the dismissal, if a formal complaint or individual allegation(s) is dismissed.

If charges are not issued, or are dismissed under Babson's Title IX Policy because the allegations, even if proven, would not constitute Title IX Prohibited Conduct, the College may address any allegations that may violate other College policies pursuant to any applicable College policies.

### 4. Investigation

The Title IX Coordinator will appoint one or more persons, who may be either internal College employees trained in investigations or external individuals retained for the sole purpose of conducting an investigation, to investigate the formal complaint. The person or persons conducting the investigation are referred to in this document as the "investigators." The College's investigation process and any disciplinary proceedings will be impartial and conducted by individuals trained on issues relating to sexual misconduct and the College's investigatory

and hearing procedures. The investigation will include the investigators interviewing parties and witnesses, and collecting documentation and other evidence, as appropriate. Parties who are participating in interviews with the investigators shall provide the names of witnesses and identify potential evidence to the investigators in writing prior to their interview(s) or as soon as possible thereafter. Parties who decline to participate in the College's investigation also are asked to notify the investigators, in writing, as soon as possible, of any evidence or witnesses known to the party which they wish for the College to consider as part of the grievance process.

The parties may be accompanied by an advisor of their choice during any meeting or interview they choose to participate in during the investigation but are not required to have an advisor attend any investigative meetings or interviews. The investigators will not request from any party or witness any information that is protected by a legal, medical, or other recognized privilege, unless the party who has the rights to that privilege provides written consent to provide such information to the investigator.

During interviews and any other meetings as part of the investigative process (and prior to any hearing, described in Section VIII(A)(7), below), an advisor may ask clarifying questions about process, but may not otherwise speak on behalf of the party. An advisor may ask to suspend any meeting or interview to briefly consult privately with the party they are supporting.

#### 5. Review of Evidence by the Parties

Before the investigators create an investigative report, the parties and no more than one advisor for each party (whom the parties must identify to the Title IX Coordinator) will be provided electronic or hard copy access to review a case file that contains all evidence obtained by the investigators that is directly related to allegations raised, including inculpatory or exculpatory evidence, regardless of whether the College will consider such information in reaching a determination of responsibility. All parties will be afforded ten (10) calendar days after being provided access to review the case file, to submit to the investigators a written response to the evidence gathered. Parties may but are not required to submit a written response to the case file, but any responses timely filed by either party will be considered by the investigators before they complete their investigation report. The investigators may determine additional investigation is necessary based on the written submissions or that no additional investigation is needed.

#### 6. Investigative Report

After the deadline has passed for parties to submit written responses to the case file and investigators determine that no additional investigation is needed, the investigators will create an investigative report that includes: a general description of the procedures followed in the investigation, the dates and locations (in person or remote) of all interviews, identification of the source of all evidence record of statements and interviews made by parties and witnesses during the investigation, all relevant information and documentary evidence gathered during the investigation, and any written responses the parties submitted after being afforded the opportunity to review the case file.

Where the accounts of parties and/or witnesses conflict in any material respect, the investigative report will identify any such inconsistencies that the investigators deem material either within an individual's statements, or between different parties' or witnesses' accounts. However, the investigative report shall not include proposed findings of responsibility with respect to any Title IX Prohibited Conduct, or any other charges that will be determined by a subsequent hearing.

Upon completion of a final investigative report, the investigators shall provide that report to Babson's Title IX Coordinator.

At least ten (10) calendar days before a hearing commences, the Title IX Coordinator will provide each party with a downloadable copy of the investigative report (which a party may share with their advisors) or will make the investigative report available for electronic review in a secure manner to the parties. The Title IX Coordinator will also provide secure access to one person for each party who has been designated to serve as an advisor for the party at a hearing ("hearing advisor") to review the investigative report and any exhibits to that report. Parties may submit a written response to the investigative report by emailing it to the Title IX Coordinator no later than three (3) business days before the hearing commences.

## 7. Hearing

In compliance with Federal Title IX regulations, after the parties have been afforded an opportunity to review and respond to the evidence gathered during the investigation, the Title IX Coordinator will schedule a hearing to address the formal complaint. The hearing will be conducted by either a single Hearing Officer or a Hearing Panel comprised of two or more individuals appointed by the Title IX Coordinator (collectively referred to as "Decision-Maker(s)").

At least ten (10) calendar days before the hearing, the Title IX Coordinator will give the parties a written "notice of hearing" which includes the time and date of the scheduled hearing, and who the College has appointed to serve as the Decision-Maker(s) at the hearing.

By no later than three (3) calendar days after receiving the notice of hearing, parties must inform the Title IX Coordinator in writing: a) if they believe any appointed Decision-Maker(s) are biased or have a conflict of interest that might impair their fairly serving in this matter; b) the identity and email contact information of the person, if anyone, they have selected to serve as their hearing advisor who is available to participate throughout the entire hearing on the noticed hearing date (see role of hearing advisor below under hearing participants), and c) identify any witnesses they wish for the College to request provide testimony at the hearing.

If any party timely notifies the Title IX Coordinator that they believe an appointed Decision-Maker is biased or has a conflict of interest that might impair their fairly serving in the matter, Babson's Title IX Coordinator will consider the concerns and may appoint different Decision-Maker(s) if the Title IX Coordinator deems it necessary to do so. The Title IX Coordinator may, in their discretion consult with other College staff, but the Title IX Coordinator's ultimate decision regarding the assignment of Decision-Maker(s) is final.

The Title IX Coordinator will provide the appointed Decision-Maker(s) with a copy of the investigative report at least five (5) days before the hearing. The Title IX Coordinator also will share any timely submitted responses to the investigative report that were submitted by either party with the Decision-Maker(s) and with the other party before the hearing.

i. Hearing Participants

A hearing will be conducted by the Decision-Maker(s), which may be either a single Hearing Officer or a Hearing Panel comprised of two or more individuals appointed by the Title IX Coordinator. Decision-Maker(s) may include members of the Babson community, but may not include students. If a Hearing Panel is appointed, the Title IX Coordinator will appoint one Panel member to serve as Hearing Chair (“Chair”), who shall be responsible for running the hearing including ensuring decorum is maintained during the hearing, and for making rulings and determinations on evidentiary issues. Prior to the date the hearing commences, all Decision-Makers will have received training on the hearing procedures, the definitions relevant to Title IX Prohibited Conduct, avoiding bias, and determining relevance of evidence.

Each party is required to have one advisor attend and participate in the hearing, who is able and willing to pose questions to other parties and witnesses on the party’s behalf (“hearing advisor”). The hearing advisor may but need not be an attorney, and may be the same or different individual who served as the party’s advisor during any earlier stages of the grievance process. If either party fails to timely notify the Title IX Coordinator that they have identified or secured someone to serve as their hearing advisor, the College will, at no cost to the party, designate a trained individual selected in the College’s discretion to serve as the party’s hearing advisor. The individual selected by the College to serve as hearing advisor may but need not be an attorney.

Parties who participate in the hearing also may, but are not required, to have one emotional support resource accompany them at the hearing. A party’s emotional support resource may not ask questions of witnesses or otherwise speak at the hearing. Parties may select anyone to serve as their emotional support resource at a hearing, except for individuals who are potential witnesses at the hearing.

If a party declines to attend a hearing, the hearing may be conducted in the absence of the complainant or respondent at the discretion of the Title IX Coordinator and/or the Hearing Officer or Chair.

Parties who participate in the hearing will be located in separate rooms from the other party and the Decision-Maker(s). Parties will be connected to one another and the Decision-Maker(s) in real time via video conference technology. When possible, each party should be in the same physical room as their hearing advisor and their emotional support resource; if any party is unable to be in the same physical location as their advisor and/or emotional support resource, they may be connected with one another virtually in a manner that allows them to privately communicate with one another. Witnesses will be called upon by the Decision-Maker(s) to join the hearing via video conference only while their presence is required to answer questions.

## ii. Hearing Process

The parties will have equal opportunity to present evidence and witnesses on their behalf during a hearing or proceeding, and each party will be provided with timely and equal access to relevant evidence that will be used in making a disciplinary determination. The hearing will begin with a statement by the Hearing Officer or Chair reviewing: the allegations of Title IX Prohibited Conduct and any other alleged College policy violations to be addressed in the hearing; procedures that will be followed in the hearing; privacy requirements related to the hearing; and expectations for decorum by parties, advisors and witnesses. There may be restrictions on evidence considered by the fact finder, including evidence regarding prior sexual history or character evidence.

After the Chair has made this introductory statement, each party and witnesses who are participating in the hearing will be called by the Hearing Officer or Chair to be questioned. For each person questioned, the Decision-Maker(s) will first ask questions they have for the individual who is testifying. After the Decision-Maker(s) ask their questions, each of the parties' hearing advisors will be given a turn to pose any additional relevant questions they would like to ask the other party or any witness(es) who testified, but may not ask direct examination questions of the party they are representing. Parties may not directly question each other or pose questions to any testifying witnesses. No questions may be asked by hearing advisors in a hearing that are deemed irrelevant by the Hearing Officer or Chair.

When the questioning of parties and witnesses is complete, each of the parties will be permitted (but not required) to make a brief closing comment (five (5) minutes or less unless extended at the discretion of the Chair). Advisors may not make closing comments on behalf of the parties.

At any point during these proceedings, the Decision-Makers may go into a closed session, temporarily excusing all participants.

The College will record all parts of the live hearing proceedings, but shall stop recording when the Decision-Maker(s) are in closed sessions. Following the conclusion of the hearing, and after the parties receive notice of the hearing outcome, the recording will be made available to the parties for their review prior to the deadline to submit any appeals, if they make a request to the Title IX Coordinator to review it.

## iii. Hearing Determination

After a hearing, the Decision-Maker(s) will deliberate and confer in private and reach a determination regarding responsibility for all charges being decided.

In assessing responsibility for the charges, the Decision-Maker(s) may only consider documentary evidence that was submitted to the Decision-Maker(s) by the Title IX Coordinator before the hearing (e.g., the Investigative report, Appendix, and parties' written responses to the report) and live witness testimony presented during the hearing. Such evidence will generally be

subject to cross examination; however, subject to applicable state or federal guidance and/or case law, the Decision-Maker(s) may, in their discretion, consider statements made outside the hearing even if the person making such statements does not appear at the hearing for questioning.

If a party or witness does not participate in the hearing, the Decision-Maker(s) may not make any inference regarding the respondent's responsibility for any charges based on a party's or witness's non- participation.

Following the conclusion of the hearing, the Hearing Officer or Chair will, within a reasonable period of time, issue to the Title IX Coordinator a written determination of findings, which includes:

- a description of the allegations;
- a general description of the procedural steps taken from receipt of the formal complaint to the determination;
- findings of fact that support the Decision-Maker(s)' determination;
- conclusions regarding whether Babson's Title IX Policy and/or any other College policies were violated;
- a brief statement of the rationale for any determination of responsibility; and
- If the Decision-Maker(s) determine that the respondent is responsible for any policy violation(s), the written determination shall also include what sanctions are to be imposed on the respondent for such violation(s).

All determinations concerning responsibility and sanctions, if applicable, must be unanimously agreed upon by all Panelists. If, after engaging in a good faith effort to reach agreement concerning the determination of responsibility for any particular charge, the Hearing Panel is unable to reach unanimous agreement, the Panel will issue a "not responsible" finding for that charge.

No later than seven (7) calendar days after the Decision-Maker(s)' final written determination is issued, the Title IX Coordinator shall simultaneously provide both parties with written notice of the determination, as well as the identity of a designated appellate officer for the matter and the appeal procedures available to both parties. The designated appellate officer may be either a trained external individual not employed by the College, or a trained College administrator.

If any party believes the designated appellate officer is biased or has a conflict of interest that might impair their fairly serving in the matter, the party must notify the Title IX Coordinator of such concerns with specificity in writing within three (3) calendar days after being informed of the identity of the designated appellate officer. Babson's Title IX Coordinator will consider any concerns that are timely raised and may appoint a different appellate officer if the Title IX Coordinator deems it necessary to do so. The Title IX Coordinator may, in their discretion consult with other College staff, but the Title IX Coordinator's ultimate decision regarding the appointment of an appellate officer is final.

#### iv. Sanctions

If the Decision-Maker(s) determine that a respondent is responsible for violating Babson's Title IX Policy, and/or any other College policy, the Hearing Officer or Chair will so inform the Title IX Coordinator who will then provide the Decision-Maker(s) with any relevant information including the Respondent's conduct history which the Decision-Maker(s) may consider among factors relevant to determine what sanction(s) will be imposed.

Any Babson community member who is found responsible for engaging in Title IX Prohibited Conduct will receive a sanction that may be up to and including expulsion for a student, termination of employment for an employee, and exclusion/removal from the community, depending on the severity of the incident and taking into account any previous disciplinary history. The standard sanction for students found to have engaged in non-consensual sexual penetration is suspension or expulsion.<sup>3</sup> Common sanctions also include loss of benefits and opportunities, loss of leadership opportunities, suspension, issuance of permanent no contact orders, and/or educational requirements.

The Decision-Maker(s) should also consider whether any remedies should be offered to restore or preserve the complainant's access to the College's educational programs or activities. Remedies may include extending or making permanent any supportive measures.

#### 8. Appeals

Any party in a grievance process held pursuant to this Policy may appeal a determination of responsibility or the dismissal of a formal complaint or any allegations therein, within seven (7) business days after the notification of hearing determination was delivered to the party's Babson email address (or non-Babson email account for parties who do not have an active Babson email address). Appeals must be emailed to Babson's Title IX Coordinator, who will then provide them to the appointed appellate officer.

Appeals are permitted only on the following four grounds:

- Babson's failure to follow the procedures in this Policy, which materially affected the outcome of the matter;
- New information or evidence that has become available, and that was not reasonably available before the outcome through the exercise of reasonable diligence and that could materially change the outcome of the matter;
- The Title IX Coordinator, investigator, or a Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that materially affected the outcome of the matter; or
- Sanctions imposed fall outside the College's range of sanction guidelines and/or are grossly disproportionate to the violation(s) determined to have been committed.

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<sup>3</sup> *The Decision-Maker reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating or aggravating circumstances. Neither the initial decision-maker nor any appeals officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.*

Guiding principles of the appeal process are:

- Appeals are not intended to re-hear the allegations or to constitute a *de novo* review of the investigation.
- Absent clear and material error, appeal determinations are intended to be deferential to the original decision-maker. Findings should be revised by the appellate officer only when remanding for further consideration or clarification by the Decision-Maker(s) would be insufficient, impractical or unnecessary. Sanctions should be revised by the appellate officer only if there is a compelling justification to do so.

If any party submits a timely appeal that on its face articulates a potentially valid basis for appeal, the appellate officer will notify each other party that the appeal was filed and will provide the other part(ies) with a copy of such appeal(s). Each party will be given the opportunity to submit a written statement responding to any appeal filed by another party within three (3) business days of when they were notified of the appeal. Appeals are intended to determine whether sufficient information is presented to warrant a reconsideration of the decision being appealed.

The appellate officer considering any appeal that has been timely filed will consider only the Decision-Maker(s)' written determination and evidence that was available for their consideration, in addition to the information presented by the parties in their appeal(s). In limited circumstances, if a question raised in an appeal is unclear based on the written record, the appellate officer has the discretion to ask specific, relevant questions in writing of any persons playing a role in this process, e.g., the Title IX Coordinator, Decision-Maker(s) or the investigators. The appellate officer should avoid posing questions to any witness or party absent extenuating circumstances. However, if such a situation is deemed appropriate, the appellate officer should make this request – and any other request for further questions – to the Title IX Coordinator to ensure that a fair process is conducted for all parties.

The appellate officer will issue simultaneous notification to the parties of the outcome of any timely filed appeals. The appellate officer may affirm all or part of the decision or refer the matter to the Decision-Maker(s) for reconsideration, as specified by the appellate officer. In rare instances, the appellate officer has authority to require a new investigation and hearing of the matter.

## ***B. Informal Resolution: Alternative Resolution Options for Complaints Involving Student Respondents***

At any point after a formal complaint is filed involving a student respondent, and before charges are resolved by the College following the conclusion of the formal grievance process, either party may ask the Title IX Coordinator to suspend the formal grievance process and attempt to utilize Babson's informal resolution (IR) processes to reach a non-disciplinary resolution agreement between or among the parties. The Title IX Coordinator has discretion to determine if initiating an Informal Resolution process is appropriate, even if requested by one or both parties. The Title IX Coordinator will assess requests to initiate an informal resolution process with consideration of factors including the severity of alleged violations of Policy, the potential risks to College community members, and the interests of the parties.

After receiving any party's request to attempt IR, if the Title IX Coordinator determines a matter may be potentially resolved through informal resolution, the Title IX Coordinator will notify the other party of the request and ask whether they also wish to attempt an informal resolution. If both parties in any grievance process involving a student respondent inform the Title IX Coordinator in writing that they wish to suspend the formal grievance process to attempt IR, the Title IX Coordinator will issue written notification to each of the parties regarding:

- The allegations;
- The initiation of an IR process;
- The right of either party to withdraw from the IR process and resume the formal complaint grievance process at any time;
- The inability to resume a formal complaint grievance process based on the exact same allegations, if a successful resolution is reached through IR;
- Information regarding the records that will be retained after an IR process concludes; and
- That the parties have five (5) calendar days after issuance of the notification to provide written consent to engage in IR if they so choose.

If each of the parties agrees voluntarily in writing to initiate an IR process, the Title IX Coordinator will designate a trained, impartial individual to facilitate IR. Parties should promptly notify the Title IX Coordinator if they believe the appointed facilitator has a conflict of interest or bias that might impair their service in the matter. The parties are expected to work diligently together and with the facilitator of the process to attempt to reach an agreed-upon resolution addressing the concerns raised in the formal complaint. Any resolution agreement must be made in writing and signed by the parties. The parties may consult with their advisors during the IR process.

Unless the person the College appointed to facilitate an IR process determines that an extension is warranted, the IR process will end and the formal grievance process will resume if IR is not successfully completed within two weeks of the initiation of the informal process.

Babson's Alternative Resolution pathways for cases involving student respondents are described in the [Community Code of Student Conduct](#). Informal resolution is not permitted by Babson in cases where an employee is alleged to have engaged in Title IX Prohibited Conduct.

## **IX. Additional Considerations**

### **Accommodations for Individuals with Disabilities**

Reasonable accommodations will be provided to individuals with disabilities who participate in any process under this Policy, in accordance with applicable law.

Any Babson student with a disability who requires an accommodation to participate in any part of the process under this Policy must request an accommodation through the Department of Accessibility Services. To register, students may submit an application via the Accessible Information Management (AIM) portal. The Department of Accessibility Services will make a determination regarding the request and notify the Title IX Coordinator, who will then notify the party seeking the accommodations and other parties as relevant and necessary to facilitate the required accommodations. For example, if a student requires additional flexibility in the process to accommodate a disability, the other party may be informed to ensure parity of process. A student will not be considered to have a disability unless the student registers with the Department of Accessibility Services. Students may contact Accessibility Services at [accessibility@babson.edu](mailto:accessibility@babson.edu) or by phone at 781-239-4075. For further information about the policies and procedures, visit the Babson Student Portal. Accessibility Services, located in Hollister Hall, Suite 220, is open from 8:30 AM to 4:30 PM Monday through Friday.

Any Babson employee with a disability who needs an accommodation to participate in any part of the process under this Policy must request an accommodation by contacting Babson's Human Resources Department at [acomodations@babson.edu](mailto:acomodations@babson.edu).

Any person with a disability who is neither a Babson student nor Babson employee, and who seeks an accommodation to participate in any part of the process under this Policy, must submit a written request for any needed accommodations to the attention of Babson's Title IX Coordinator, for the College's consideration.

Please submit any accommodation requests as soon as possible and before the accommodation is needed as accommodations cannot be retroactively granted. While a disability may entitle a party to an accommodation, it is not typically an excuse or defense to an allegation of misconduct.

### **Amnesty for Certain Policy Violations**

In order to encourage students to refer incidents involving possible discrimination or safety concerns to the College, the College generally will extend amnesty for certain policy violations to students who report alleged Title IX prohibited conduct or other gender-based misconduct, who participate in a College grievance process, and who are helping someone to obtain support related to alcohol or drug consumption or related to discrimination or harassment, including Title IX Prohibited Conduct. Amnesty may only be granted, however, if the violation is related to a report of gender-based misconduct and the conduct which violated Babson's expectations for students did not significantly harm others or compromise community safety or College operations. A student for whom an Alcohol or Other Drug Policy violation is waived may be referred for a meeting with Babson's Office of Wellness and Prevention Services.

The use of alcohol or other drugs by a respondent shall not be considered a mitigating factor in determining whether a respondent has violated this Policy or in determining appropriate

sanctions.

### **Burden of Proof and Burden of Gathering Evidence**

The College, not the parties, maintains the obligation to prove the allegations at issue and collect relevant evidence in a process under this Policy. Notwithstanding this burden, the parties are strongly encouraged to provide the investigator with the identities of potential witnesses and with documentation or other evidence they wish to be considered in the investigation or in any subsequent hearing.

### **Coordination of Response to Alleged Misconduct**

When a formal complaint of Title IX Prohibited Conduct includes allegations that a respondent has engaged in misconduct prohibited by both Babson's Title IX Policy and another College Policy, the Title IX Coordinator will coordinate its response to these allegations with appropriate community partners, and the College may in its discretion resolve only some or all charges pursuant to the processes set forth in this Title IX Policy.

### **Designees**

Any individual identified in this Policy as responsible for fulfilling a particular function or role may be substituted at the College's discretion by a similarly trained individual. For example, steps required to be taken by the Title IX Coordinator in this Policy may instead be taken by a Deputy Title IX Coordinator or other designee, given their training and familiarity with the process. If such designations are made, the parties will be notified of the designation.

### **Educational Setting**

In educational settings within the College, latitude and deference shall generally be given by the College to a faculty member's professional judgment in determining the appropriate content and presentation of academic material. Academic curriculum and pedagogical goals that serve legitimate and reasonable educational purposes do not, in and of themselves, constitute sexual harassment or other unlawful discrimination. Those participating in an educational setting as educators, however, bear a responsibility to balance their professional responsibilities and academic freedoms with a consideration of the reasonable sensitivities of other participants in accordance with applicable College policies.

Nothing contained in this Policy shall be construed to limit the legitimate and reasonable academic responsibilities and academic freedoms of the College's professional educators, or the College's educational mission.

### **Extensions or Delays**

Babson College will make a good faith effort to complete its review and resolution of all formal complaints in a timely manner. Temporary delays of this process are permitted in the discretion of the Title IX Coordinator for good cause, such as: law enforcement activity; the absence or unavailability of a party, a party's advisor, or a witness; the need for language assistance or accommodation of disabilities; or the parties' request to suspend the process while they attempt to resolve issues in dispute through an alternative restorative resolution process. When delays occur, the Title IX Coordinator or a designee will provide written notice to the parties of the delay, and the reasons for the action.

If a person identified by a party to serve as their hearing advisor fails to appear at a hearing at the time and date when the hearing was scheduled to occur, the College will suspend and reschedule the hearing, but may require the party to select a different hearing advisor for the rescheduled hearing, who the College has confirmed is available to attend on the rescheduled date(s).

For all timeframes listed in this Policy, unless otherwise specified, days shall refer to business days. If a deadline occurs on a date when the College's administrative offices are closed for weather or other emergency, the deadline will be considered to be the following normal business day.

### **Honesty/False Information and Misrepresentation**

Any Babson community member who participates in a College grievance process, either as a party or a witness, is expected to be completely honest throughout the process. Any person who chooses to participate in a grievance process and knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process may be subject to separate College disciplinary action. The College will not direct its Panel to draw an adverse inference with regard to a party's refusal to participate for good faith, justifiable reasons. However, the College retains the right to utilize other policies to enforce this requirement when false statement or material omissions are made in bad faith.

The initiation of a good faith complaint of harassment or retaliation will not be grounds for disciplinary action, even if the allegations are not substantiated. Any individual who makes a complaint that is demonstrated to be intentionally false may be subject to discipline.

### **Preponderance of the Evidence**

The standard of evidence that Babson College uses to determine both students' and employees' responsibility for violating this TIX Policy and in any allegations of misconduct, including but not limited to claims of discrimination or harassment, is the preponderance of the evidence. In this context, this means that the College considers the totality of the evidence and determines whether the individual is more likely than not to have been responsible for a violation of the Policy.

### **Privacy**

The College values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to this Policy, as well as the sensitive nature of matters typically falling under this Policy. The College will maintain privacy regarding proceedings under this Policy, to the extent possible while meeting its legal and other obligations, including maintaining a safe environment for all members of the College community.

Participants in an investigation are allowed to speak to relevant parties and gather relevant information for the purposes of fulfilling their roles at a hearing, but they are expected to maintain privacy regarding any information they learned through the grievance process, including through questions asked or statements made by the investigator. Please keep in mind that information learned through this process may separately implicate privacy statutes around educational records, medical records, and other records requiring consent prior to review and distribution.

## **Recording**

It is prohibited for participants in any interview, meeting, or hearing under this Policy to make or disseminate video, audio, or other electronic, photographic, or digital recordings of meetings, documentation, or other evidence shared with them as part of the investigative process. The College is required by Federal regulations to record and maintain a record of the hearing only, which will be made available to the parties for only their and their advisors' review upon request after the conclusion of the hearing. Parties may only use the recording for the purposes of appealing the decisions reached through this process.

## **Special Situations**

In unusual circumstances, certain aspects of this Policy may be difficult or impossible to execute because of the facts and circumstances at issue. In such situations, the College will notify the parties of any material departure from this process and describe the process to be used in its place. It will provide this information in a timely fashion and with a careful eye towards parity of process. In certain circumstances, the College may seek specific written consent from the parties to affirm that they understand proposed process changes.

## **X. Reporting to Law Enforcement or other Agencies**

### ***A. Law Enforcement***

Complainants may pursue criminal action for incidents of Title IX Prohibited Conduct, when those actions are also crimes under Massachusetts law. The Title IX Coordinator can assist complainants in making criminal reports, either to the Babson College Public Safety Department (which can be reached 24/7/365 at 781.239.5555) or to the police department with jurisdiction where any incident reportedly occurred.

The College will, to the extent permitted by law, cooperate with law enforcement agencies if a criminal process is initiated.

### ***B. State and Federal Agencies***

Individuals who believe that they have been subjected to Title IX sexual harassment or other unlawful discrimination, harassment or retaliation, may file formal complaints with:

- **U.S. Department of Education, Office for Civil Rights (“OCR”)**  
5 Post Office Square, 8th Floor  
Boston, MA 02109-3921  
Telephone number (617.289.0111)  
TTY (800.877.8339)

Complaints filed with OCR generally must be filed within 180 days of the incident giving rise to the claim.

- **U.S. Equal Employment Opportunity Commission (“EEOC”)**  
John F. Kennedy Federal Building  
15 New Sudbury Street, Room 475  
Boston, MA 02203-0506  
Telephone number (800.669.4000)  
TTY (800.669.6820)

Complaints filed with the EEOC generally must be filed within 300 days of the incident giving rise to the claim.

- **Massachusetts Commission Against Discrimination (“MCAD”)**  
One Ashburton Place, Suite 601  
Boston, MA 02108  
Telephone number (617.994.6000)  
TTY (617.994.6196)  
Language assistance (617.994.6071)

Complaints filed with the MCAD generally must be filed within 300 days of the incident giving rise to the claim.

### ***C. Other Colleges and Universities***

A Babson College community member who has experienced Title IX sexual harassment at another educational institution may choose to report or not report the misconduct to that other educational institution. Babson’s Title IX Coordinator is available to assist any member of the Babson community who wishes to explore options of reporting Title IX sexual harassment or any other gender-based misconduct to another educational institution.