

# BABSON COLLEGE

## **GENDER-BASED MISCONDUCT POLICY FOR STUDENTS**

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## I. INTRODUCTION

Babson College (the “College”) is committed to preserving a learning environment that promotes the health and safety of our community members. Consistent with the College’s values and its [Notice of Non-Discrimination](#), the College prohibits both its students and other community members from engaging in any and all forms of gender-based misconduct that are prohibited under this Policy. Gender-based misconduct is considered to be one of the most serious violations of the [Community Code of Student Conduct](#).

The College will promptly and effectively respond when informed of allegations that a Babson student has engaged in gender-based misconduct, regardless of where an incident occurred and the College will take action to eliminate the harassment, prevent its recurrence, and address its effects in accordance with this Policy. This Policy is intended to define community standards and to outline the investigation and grievance procedures when those standards are alleged to have been violated by a Babson student. When a student is found to have violated this Policy, sanctions may be implemented to reduce the likelihood such actions are repeated, and to prevent ongoing harm to the Babson community.

## II. SCOPE OF POLICY/JURISDICTION

Title IX of the Education Amendments of 1972 (“Title IX”) prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance, and federal regulations prescribe specific procedures that colleges must follow when addressing formal complaints concerning certain conduct that falls within the scope and jurisdiction of Title IX. In August 2020, the federal government updated regulations implementing Title IX to create specific jurisdictional and other restrictions. Accordingly, the procedures set forth in [Babson’s Title IX Policy](#) will be used to address formal complaints the College receives from someone who has standing to trigger that Title IX Policy, and which allege conduct that falls within the scope and jurisdiction of the Title IX Policy.

The scope and jurisdiction of Babson’s Gender-Based Misconduct Policies<sup>1</sup> are more expansive than the scope and jurisdiction of Babson’s Title IX Policy, and this Gender-Based Misconduct Policy will be used by Babson to address reports alleging that a Babson student has engaged in gender-based misconduct that is prohibited by this policy and which falls outside the scope and jurisdiction of Babson’s Title IX Policy. Matters that may be addressed under this Policy include complaints filed by individuals who are neither currently affiliated with Babson College nor seeking to participate in College programs or activities; complaints concerning alleged gender-based misconduct that reportedly occurred in a location outside the United States or where the College did not exercise substantial control; and alleged gender-based misconduct that does not constitute Prohibited Conduct under Title IX, but which would violate other applicable state and federal laws, such as Title VII of the Civil Rights Act of 1964 or Massachusetts General Laws

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<sup>1</sup> Babson has two Gender-Based Misconduct Policies; this Policy applies when a respondent is a Babson student, and [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.

c. 151B. Consistent with both Babson's values and applicable state law, Babson's Gender-Based Misconduct Policies prohibit not only discrimination based on sex, but also discrimination based upon an individual's gender, gender identity or expression, or sexual orientation.

If Babson receives a complaint alleging that a respondent engaged in conduct that potentially violates both Babson's Title IX Policy and other College policies, including this Policy, Babson's Title IX Coordinator may within their discretion, and in alignment with federal law, choose to resolve some or all of the non-Title IX charges pursuant to the process in Babson's Title IX Policy and will contemporaneously inform all parties of such determinations.

The scope and jurisdiction of this Gender-Based Misconduct Policy are the same as set forth elsewhere in the College's [Community Code of Student Conduct](#). To the extent that a student is alleged to have engaged in gender-based misconduct prohibited by this Policy, and also additional alleged violations of the [Community Code of Student Conduct](#), related allegations that involve conduct that is not prohibited by this Policy may be addressed either under this Policy or the [Community Code of Student Conduct](#), in the sole discretion of the Director of Community Standards in consultation with the Title IX Coordinator.

This Policy relates specifically to student behavior and applies when the accused (hereafter referred to as "respondent") is a student or a student group. When the respondent is a Babson faculty or staff member or someone otherwise affiliated with the College and not a Babson student, allegations that the respondent engaged in gender-based misconduct that is prohibited under this Policy will be addressed in accordance with the processes set forth in Babson's [Gender-based Misconduct Policy for Faculty, Staff, and Affiliated Persons](#).<sup>2</sup>

When a complaint is filed against a community member who embodies more than one status at the College (i.e., the community member is a student and an employee), alleging that community member engaged in prohibited gender-based misconduct, the Title IX Coordinator has the authority to determine the investigative process (student or employee) for the reported incident. The selected grievance process shall have the authority to make final determinations affecting all of a respondent's statuses at the College.

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<sup>2</sup> Babson's GBM Policies for Students and non-student community members are similar in many respects: they both prohibit the same gender-based misconduct, both resolve charges using an investigative grievance process, and both afford parties the right to be supported throughout the process by an advisor of their choice. One notable difference between the two GBM policies is who serves as decision makers. Under the GBM Policy used to address alleged misconduct by students, Campus Life employees may serve as investigators, and are designated to serve as the sanctioning officer (if there is a finding of responsibility), and as the appeals officer (if there is an appeal). However, Campus Life staff do not fill these roles under the GBM Policy for Faculty, Staff and Affiliated Persons. When the respondent is a College employee, the Title IX Coordinator generally appoints an independent investigator to investigate the charges, and if that appointed investigator concludes that the respondent more likely than not violated the GBM Policy, the College then determines appropriate disciplinary sanctions, up to and including potential termination, or in the case of tenured faculty, initiation of tenure revocation procedures, in accordance with the Policy.

### III. DEFINITIONS

The following definitions apply under this Policy:

***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 College's process to address a complaint investigated under this Policy. 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.

***Complainant:***

Any individual who reports to the College that they were impacted by gender-based misconduct allegedly committed by a Babson community member. Complainants under this Policy may include any individual, including former students of the College.

***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. Babson students may choose whether to seek support from any or more than one confidential resource. Pursuant to a Massachusetts law Relative to Sexual Violence on Campus (effective 08/01/21), Babson has designated Babson Wellness and Prevention Services (wellness@babson.edu) and Counseling and Psychological Services (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 concerning gender-based misconduct, and the legal process for requesting court ordered legal protection, or reporting potential crimes to law enforcement.

***Effective 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).

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. A person who engages in sexual activity with another person whom they know, or should reasonably have known, is unable to provide Effective Consent lacks consent as defined under this Policy.

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.

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

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

**Respondent:** A Babson community member who is reported to have been the perpetrator of conduct that is prohibited under Babson's Gender-Based Misconduct Policies.

**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.

**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 (if respondent is a student), termination (if respondent is a Babson employee), suspension, probation, reprimand, warning, restitution, education/counseling requirements, restrictions on participation in College programs or activities, loss of privileges, loss of leadership opportunities or positions, housing restrictions, and/or restrictions on employment by the College. If a respondent is found to have violated this 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 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 for violations of this 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 the College’s educational 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. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modification 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 from the Campus Directory, leaves of absence, increased security and monitoring of certain areas of 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, the 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 to provide supportive measures. For instance, the issuance of No Contact Orders necessarily requires that all parties to the Orders be notified of the directive.

## **IV. PROHIBITED CONDUCT**

The following are definitions of Prohibited Conduct under this Gender-Based Misconduct Policy. Any attempt to engage in conduct prohibited under this Policy will be treated as a violation, if proven, unless the attempt is abandoned, or the prohibited conduct is prevented from occurring under circumstances that demonstrate a voluntary change of behavior. Aiding and/or cooperating in the forms of conduct prohibited in this Policy is also prohibited. As stated above, to the extent that a complaint does not satisfy the federally required limitations set in the Title IX Policy, this Policy and these definitions may be applicable. For instance, complaints alleging a Babson student engaged in non-consensual penetration or non-consensual sexual contact will be addressed under Babson's Title IX Policy if the alleged incident occurred within the jurisdiction and scope of Title IX. However, complaints alleging that a Babson student engaged in non-consensual sexual penetration or non-consensual sexual contact will be addressed under this Policy if there is no Title IX jurisdiction (e.g. the reported victim does not have standing to be a complainant under Title IX or the incident occurred off campus and not in connection with College controlled programs or activities).

### ***Gender-Based Misconduct***

Gender-based misconduct is a broad term which encompasses unwelcome conduct of a sexual nature that is prohibited by the College. The term gender-based misconduct includes, but is not limited to, gender-related harassment, sexual assault, sex discrimination, sexual violence, rape, intimate partner abuse, domestic violence, and stalking that does not fall within the scope or jurisdiction of [Babson's Title IX Policy](#).

### ***Sexual Harassment***

Any unwelcome sexual, sex-based, and/or gender-based verbal, written, online, and/or physical conduct which also falls within the definition of hostile environment harassment and/or quid pro quo sexual harassment.

- Hostile environment sexual harassment exists where harassment is sufficiently severe, persistent, or pervasive, and is objectively offensive such that it unreasonably interferes with, limits, or denies someone's ability to participate in or benefit from the College's educational, employment, social, residential, or other programs or activities. In assessing whether conduct is hostile environment sexual harassment, the totality of the circumstances will be considered.
- Quid pro quo sexual harassment exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature, where submission to, or rejection of, such conduct results in adverse educational or employment consequences. Quid pro quo harassment may also exist when an explicit or implicit threat of adverse action or a promise of a benefit is conditioned on submission to, or rejection of, such requests.
- Behaviors that may constitute sexual harassment include but are not limited to:
  - Sexual advances, regardless of whether or not they involve physical touching;
  - Requesting or demanding sexual favors with respect to employment, academic or other College activities;
  - Lewd or sexually suggestive comments, jokes, gestures, or innuendos;
  - Displaying sexually suggestive objects or pictures;

- Inquiries into one's sexual experiences;
- Discussion of one's sexual experiences;
- Unwelcome leering, whistling, gestures, suggestive or insulting comments;
- Unwelcome communications (verbal, written, electronic, etc.) of a sexual nature;
- Gossip about one's sex life or comments about an individual's sexual activity;
- Failure to accept the termination of a consensual relationship with repeated and persistent requests and behavior.

### ***Sexual Misconduct***

**Non-Consensual Sexual Penetration** – Any sexual penetration (anal, oral, or vaginal), however slight, with any part of one's body or with any object, upon another person, without Effective Consent. Non-consensual penetration includes both situations where a person's body is penetrated without Effective Consent and situations where a person is forced, caused, or made, without their Effective Consent, to penetrate another person's body.

- **Non-Consensual Sexual Contact** – Any intentional touching of a sexual nature, however slight, with any part of one's body or any object, upon another person, without Effective Consent, or any disrobing of another person without that person's Effective Consent.
- **Sexual Exploitation** – Taking sexual advantage of another person without their Effective Consent, either for one's own advantage or benefit, or for the advantage or benefit of any third person. Examples include but are not limited to:
  - Causing or attempting to cause the incapacitation of another person to effect Sexual Misconduct through ingestion or use of drugs or alcohol or otherwise;
  - Exposing one's genitals or other intimate body parts to a particular person and/or to the general public;
  - Electronically recording (digital, video or audio), photographing, or transmitting another person's intimate or sexual utterances or sounds, or images of another person in any state of undress or nudity or engaging in sexual activity, without their Effective Consent;
  - Allowing third parties to observe consensual or non-consensual sexual acts without the Effective Consent of each person being observed;
  - Engaging in voyeurism (i.e. observing people engaging in private or intimate acts without their Effective Consent);
  - Distributing intimate or sexual information about another person without their Effective Consent;
  - Prostituting or soliciting another person or causing the prostitution of another person; and/or
  - Knowingly exposing another person to a sexually transmitted infection or disease, including HIV.



### ***Stalking***

Pursuing, following, harassing, and/or otherwise unreasonably interfering with the peace and/or safety of another, by conduct occurring typically on more than one occasion, that: (i) instills fear, impairs or endangers safety or mental/physical health, and/or causes substantial emotional distress; and (ii) would cause a reasonable person to experience fear, impaired or endangered safety or mental/physical health, and/or substantial emotional distress.

Such behaviors or activities may include but are not limited to the following:

- Non-consensual communication (e.g., face-to-face communication, telephone calls, voice messages, text messages, email messages, communication via social media networks, written letters, gifts, or any other communication that a reasonable person should have known was unwanted)
- Threatening or obscene gestures;
- Surveillance, trespassing or pursuing; and/or
- Waiting, or showing up uninvited at a place of residence, classroom, workplace, etc.

### ***Intimate Partner Abuse/Intimate Partner Violence***

Any abusive behavior between those who are in or have been in an intimate or romantic relationship with each other. Abusive behavior may be emotional, psychological, physical and/or sexual, including any behavior that one person in an intimate or romantic relationship uses to control the other. Intimate partner abuse or violence may be a single act or a pattern of behavior in relationships. Examples include but are not limited to:

- Threats to cause another physical, emotional, or other harm;
- Demeaning or derogatory communications that amount to abusive behavior;
- Preventing contact with family or friends; and/or
- Actual or threatened physical harm.

### ***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. If the College receives a complaint alleging that any student or other community member engaged in prohibited retaliation relating to someone engaging in protected activity under this Policy, the College may in its discretion adjudicate that alleged retaliation under either this Policy, the *Community Code of Student Conduct*, or another applicable College policy.

Examples of protected activity include but are not limited to:

- Reporting gender-based misconduct, or any other alleged violation of law or College policy;
- Assisting another person in making a report; and/or
- Participating in or otherwise assisting with a College investigatory procedure or other grievance process, or a law enforcement investigation or legal proceeding.

Examples of adverse action include, but are not limited to:

- Threats, intimidation, continued harassment or other misconduct;
- Discouraging an individual from participation in an investigation or adjudication process; and/or
- Adverse educational or employment consequences.

Retaliation by any member of the College community or any person acting on their behalf is strictly prohibited. Retaliation is a serious policy violation that can result in sanctions independent of the merits of the underlying complaint or allegation. The College will respond immediately to reports of potential retaliation and will address reported retaliation as appropriate, including but not limited to issuing interim measures or disciplinary suspension from the College.

Retaliation should be promptly reported to the Title IX Coordinator and/or Deputy Title IX Coordinator.

## **V. RESOURCES, EMERGENCY ASSISTANCE AND SUPPORTIVE MEASURES**

Individuals who have experienced or have been impacted by gender-based misconduct have options and resources available to support them regardless of if they are members of the Babson community and whether or not they choose to participate in either a College or criminal investigation.

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 confidential resources that the College provides for Babson students, 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](tel: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)) can provide the following assistance and support to Babson students who have experienced gender-based misconduct, regardless of when or where an incident occurred, or if the person(s) who harmed them was affiliated with Babson:

- Inform them of, and connecting them to, available victim advocacy, academic support, counseling, accessibility, health or mental health services, and legal assistance both on and off campus;
- Assist them in obtaining a Babson non-disciplinary No Contact Order ("NCO") if a student reports that they have received unwelcome contact from someone with whom they wish to avoid further contact and that other person is affiliated with the College. Babson's Title IX Coordinator or designee may in their discretion issue a non-disciplinary NCO and/or stay away provisions to a Babson community member if they determine the terms of such an order are appropriate and would not unduly impair College operations or the rights of other community member(s);
- 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, working arrangements or course schedules or adjustments for assignments or tests;
- Inform the student of their right to report a crime to campus or local law enforcement and to seek protective orders through the courts – and providing the student with assistance if the student wishes 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 student who experienced gender-based misconduct irrespective of whether the student requesting supportive measures reports a crime to law enforcement or files a formal complaint with the College. If confidentiality is requested, supportive measures will be implemented as feasible while preserving the privacy of the impacted party to the extent possible.

Students 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 Release of Information Form (ROI).

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. INTERIM RESTRICTIONS**

When the College is made aware of an alleged violation of this Policy, it will promptly take steps to ensure equal access to its programs and activities and protect the safety and well-being of affected individuals.

If Babson receives a report of gender-based misconduct that falls within the scope and jurisdiction of Babson's Title IX Policy, and the Title IX Coordinator after conducting an individualized safety and risk analysis, in consultation as appropriate with other College employees, determines that any member of the Babson community poses an immediate threat to the physical health or safety of any other member of the Babson community, the College may, in rare instances, restrict a respondent's access to college property or activities on an interim basis, pursuant to the Emergency Removal Provisions of [Babson's Title IX Policy](#).

If Babson receives a report of gender-based misconduct that does not fall within the scope and jurisdiction of Babson's Title IX Policy, the College may put in place interim restrictions pursuant to the Interim Restriction process in the Community Code of Student Conduct to stop the alleged harassment or discrimination, and to protect the safety and well-being of an individual and/or the College community. These actions may include, but are not limited to, College housing suspensions, campus access restrictions, and College suspensions in accordance with applicable policies and procedures. Interim action is preliminary and shall remain in effect no longer than until the gender-based misconduct process is complete, and a decision is rendered by the College. The specific interim restrictions implemented and the process for implementation will vary depending on the facts and circumstances. To the extent possible, interim restrictions will be imposed in a way that minimizes the burden on the complainant while balancing the rights of the respondent.

When an interim restriction decision has been made relating to an alleged violation of the Gender-Based Misconduct Policy, the respondent will be informed of their right to appeal or request a modification of any such interim restrictions. The College will likewise provide complainants with an opportunity to petition for modifications of such interim restrictions to the extent the College determines the restrictions directly relate to or impact the complainant(s).

## **VII. REPORTING OPTIONS AND CONFIDENTIALITY OF INFORMATION**

The College encourages individuals who have experienced gender-based misconduct to promptly talk to someone about what happened, so that they can get the support they need, and the College can respond appropriately. The College will take seriously every report of gender-based misconduct, offering appropriate support and allowing individuals to maintain as much control as possible over their situation. When considering who to speak with about something that happened, it is important to understand the difference between *confidential* and *non-confidential* resources.

### **A. CONFIDENTIAL RESOURCES**

Babson encourages community members who have experienced any potential gender-based misconduct 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. Confidential resources for Babson students, as well as confidential community resources available to support anyone who has experienced sexual violence, or relationship abuse, are listed [here](#) on Babson's Title IX webpage.

Informing a confidential resource about an act of sexual misconduct or other gender-based misconduct does not provide legal or constructive notice to the College. When a confidential resource learns of potential Title IX Prohibited Conduct or other gender-based 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.

An individual who speaks with confidential resources about gender-based misconduct that they have experienced must understand that, if they want to maintain confidentiality and/or privacy, the College may be unable to investigate the particular incident or pursue disciplinary action against the respondent. Accordingly, the scope of the available remedies, including interim measures may be limited. Nevertheless, confidential resources may still assist the individual in receiving other necessary protection and support, such as victim advocacy, academic support, accessibility accommodations, health or mental health services, and changes to living, working or course schedules.

An individual who initially requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated.

## **B. NON-CONFIDENTIAL BABSON RESOURCES**

Babson staff and faculty employees who are not designated confidential resources for students are expected to notify Babson's Title IX Coordinator if they learn that any Babson student or other member of the Babson community may have experienced or engaged in gender-based misconduct, regardless of when or where an incident occurred or whether it involved another Babson community member, so that the Title IX Coordinator can take appropriate steps to enhance community safety and offer support and reporting options to potentially impacted parties. However, beyond notifying the Title IX Coordinator, such employees should keep such information as private as possible.

Babson students generally may choose whether they wish to notify the College if they have any concerns or information involving potential gender-based misconduct. However, students who are employed as Babson Resident Assistants are expected as a condition of their employment to report to the Title IX Coordinator if they learn that any Babson student may have been impacted by or engaged in gender-based misconduct. Student Peer Mentors who serve as orientation leaders are also expected as a condition of their employment with the College to report to the Title IX Coordinator if they learn during the term of their employment as orientation leaders that any Babson student may have been impacted by or engaged in gender-based misconduct. Beyond notifying the Title IX Coordinator, however, student leaders should keep any information they learn about potential gender-based misconduct as private as possible.

College employees who are not designated confidential resources for students are expected to promptly report to the Title IX Coordinator all relevant details they learn from any source about alleged gender-based misconduct committed by or impacting any community members – including the names of the reportedly impacted party or parties and accused (if known), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. The College will then take steps to provide reported impacted parties with rights and resource information.

To the extent possible, information a Babson employee learns about potential gender-based misconduct should be shared only with the College's Title IX Coordinator, who will in turn share such information only with those responsible for handling the College's response to the report. Employees who learn about possible gender-based misconduct should not share information with law enforcement without the consent of the impacted party, unless the impacted party has also reported the incident to law enforcement, or the employee is required to do so by law.

Before someone discloses details about potential gender-based misconduct to a Babson employee, the employee should, if possible, seek to ensure that the individual making the disclosure understands the employee's reporting expectations. If the disclosing party wants to maintain confidentiality, the employee should direct the individual to designated [confidential resources](#).

If anyone tells a Babson employee who is not a designated confidential resource that they or another community member has experienced or engaged in gender-based misconduct, and requests that the employee maintain confidentiality, that employee should tell the disclosing party that because they are not a designated confidential resource, they must report to Babson's Title IX Coordinator any information they have learned about potential gender-based misconduct, but that they will also inform the Title IX Coordinator of the person's request for confidentiality.

Babson employees should not pressure an impacted person to share details about their experience or to make a full or formal report to the College or law enforcement if the impacted person does not indicate they wish to do so. The College will seek to honor and support the impacted party's wishes.

### **C. Reporting Options**

Regardless of the location where an incident involving potential gender-based misconduct occurred, individuals who have been impacted by sexual or gender-based misconduct ("impacted party/ies") have the right to file a report with the College and/or law enforcement, and to receive assistance (upon request) from campus authorities or College designated Confidential Resource Providers in doing so. If an impacted party wants the College to initiate a grievance process to determine if a community member violated Babson's policies, they should file a complaint with the College. If an impacted party wishes for anyone who has harmed them (regardless of whether they are Babson affiliated) to potentially be investigated and charged with violating criminal law, or they want to apply for a court issued protection order, they should file a report with law enforcement. Individuals who wish to participate in both a College grievance process and an external legal process may concurrently participate in both processes.

Individuals may inform Babson's Title IX Coordinator about concerns involving potential gender-based misconduct, and receive information about support and reporting options, without any obligation to file a complaint with either the College or law enforcement, participate in a grievance process, or take any other action. Individuals may also [submit an anonymous report](#) to Babson's Title IX Coordinator without disclosing their identity. See below for information about each of these reporting options:

## **1. Reporting to the College**

Complaints that any Babson community member (students, student groups, faculty, staff, third parties, visitors, etc.), engaged in gender-based misconduct can be made to the College'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**

Complaints against students and student groups, may also be reported to:

**Caitlin Capozzi, Dean of Students and Deputy Title IX Coordinator for Campus Life**  
**Reynolds Campus Center, Suite 211**  
**231 Forest Street**  
**Babson Park, MA 02457-0310**  
[ccapozzi@babson.edu](mailto:ccapozzi@babson.edu)  
**781-239-4500**

Complaints against faculty and staff, may also be reported to:

**Kate O'Leary, Deputy Title IX Coordinator for Human Resources**  
**Nichols Hall**  
**231 Forest Street**  
**Babson Park, MA 02457-0310**  
[koleary@babson.edu](mailto:koleary@babson.edu)  
**781-239-4209**



## **2. Anonymous Reporting**

Any individual may make an anonymous report to Babson's Title IX Coordinator, without disclosing their name, identifying the respondent, or requesting any action, concerning an act of gender-based misconduct committed by a member of the College community.

Anonymous reports can be filed by completing [this form](#), which also can be accessed on [Babson's Title IX webpage](#). 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. As described in this Policy, the College may have an obligation to respond to the information provided and/or other available information.

## **3. Reporting to law enforcement**

The College strongly encourages prompt reporting of safety concerns or potential crimes to law enforcement. Reporting is best done as soon as possible after an incident but may be done at any time.

An individual may report an incident to law enforcement by contacting Babson College Public Safety at 781-239-5555. Babson Public Safety, which can be reached at all times (24/7/365), has full police powers and jurisdiction for matters that occur on campus. If an incident occurred off-campus, Babson Public Safety can assist an impacted party with identifying the appropriate local law enforcement agency and with the filing of a report with that agency.

Following is a list of other law enforcement reporting options:

- Wellesley Police Department: 781-235-1212
- Needham Police Department: 781-455-7570
- Massachusetts State Police: 1-508-872-8713
- Norfolk County District Attorney Office - Brookline: 617-738-5072
- Norfolk Superior Court: 781-326-1600
- Dedham District Court: 781-329-4777

Law enforcement agencies, including Babson College Public Safety, are generally required to investigate reports of a criminal nature to the extent they are able. However, filing a complaint with law enforcement does not require the impacted party to participate in a criminal process if the impacted party chooses not to do so.

#### **D. How Babson Will Weigh Requests from Impacted Parties for Anonymity or Requests To Not Address Reports**

If the College receives a report involving potential gender-based misconduct and an impacted party requests that the College maintain their anonymity or not investigate the reported concern/incident, or they request Babson not take disciplinary action against a community member found to have violated College policy, the College must weigh such requests against the College's obligation to provide a safe, non-discriminatory environment for all students, including the reportedly impacted party.

If the College honors an impacted party's requests to maintain their anonymity or to refrain from initiating a formal grievance process, the impacted party must understand that the College's ability to meaningfully address their report with respondent may be limited. Additionally, remedies available for the impacted party may also be limited.

There are times when the College may not be able to honor an impacted party's requests in order to provide a safe, non-discriminatory environment for all students and employees. The College has designated any one or more of the following individuals to evaluate requests by reportedly impacted parties once the College is placed on notice of alleged gender-based misconduct:

- Title IX Coordinator
- Deputy Title IX Coordinator for Campus Life
- Vice President for Learner Success and Dean of Campus Life

When weighing a request from an impacted party for anonymity or that no investigation or discipline be pursued by the College, one or more of the above employees will consider a range of factors, including the following:

- The risk that the accused student or student organization ("accused party") will commit future acts of gender-based misconduct or other violence, such as:
  - whether other gender-based misconduct reports have been made to the College about the same accused party;
  - whether the accused party has a history of violence;
  - whether the accused party holds a position with supervisory responsibility and/or authority or control over the reportedly impacted party or other community members;
  - whether the accused party allegedly threatened further gender-based or other violence against the reportedly impacted party or others;
  - whether the alleged gender-based misconduct was reportedly committed by multiple perpetrators;
  - whether the alleged gender-based misconduct was perpetrated with a weapon; and
  - whether the reportedly impacted party is a minor.
- Whether the College possesses other means (e.g., security cameras, witnesses, or physical evidence) to obtain relevant evidence of the alleged gender-based misconduct; or

- Whether the report or other documentation reveals a potential pattern of perpetration at a given location or by a particular individual or group (e.g., by intentionally incapacitating an individual without their knowledge via the use of drugs).

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will generally honor the reportedly impacted party's request that the College not initiate a grievance process. If the College determines that it can grant an impacted party's request and not initiate a grievance process, the College will consider what if any other actions might be implemented to protect and assist the impacted party.

If the College determines that it cannot maintain an impacted party's request for anonymity or confidentiality, the College will inform them prior to initiating an investigation and, to the extent possible, will only share information relating to them with those responsible for handling the College's response and as required under applicable College policies and laws.

The College will remain mindful of the well-being of those who report having been impacted by gender-based misconduct and seek to protect them from retaliation or harm. Retaliation by Babson community members (students or employees) against anyone who reports misconduct, or participates in an investigation, will not be tolerated.

The College will not require a student to participate in any investigation or disciplinary proceeding. Because the College is under a continuing obligation to address the issue of gender-based misconduct campus-wide, reports that raise a concern for potential ongoing or future harm to community may prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported acts occurred; increasing education and prevention efforts, including to targeted population groups; and/or revisiting its policies and practices.

## **VIII. INVESTIGATION/RESOLUTION PROCESS**

The Title IX Coordinator is responsible for the oversight of investigations of gender-based misconduct complaints under this Policy. Formal rules of process and evidence such as those applied in criminal or civil courts are not applicable in these investigations or in the resolution process.

When a complaint is filed concerning a potential violation of the Gender-Based Misconduct Policy, the Title IX Coordinator will open and conduct a preliminary investigation. The preliminary investigation under this Policy will be conducted as soon as practicable, depending on the circumstances, including the availability of witnesses and preliminary evidence.

## PRELIMINARY INVESTIGATION

After reviewing the information received, the Title IX Coordinator will:

1. Work to determine the identity and contact information of the complainant;
2. Obtain a statement from the complainant (when possible);
3. Identify what, if any, portion(s) of Babson's Title IX and/or Gender-Based Misconduct Policies were allegedly violated;
4. Meet the complainant, if feasible, to inquire about and finalize the complaint;
5. Determine if there is cause to proceed with a formal investigation.

If the Title IX Coordinator determines that there is no reasonable cause to pursue a complaint (e.g., if the information received does not present any potential violation of Babson's Gender-Based Misconduct Policy, or if it is so vague or incomplete that no further investigation is possible), the matter will be closed with no further action and that decision will be communicated to the reporting party.

## FORMAL INVESTIGATION

If the Title IX Coordinator determines that there is reasonable cause to pursue the complaint, a formal investigation will be initiated, and the Title IX Coordinator will appoint one or more trained investigators to conduct the investigation. The College's investigation process and any disciplinary proceedings will be impartial and conducted by individual(s) trained on issues relating to sexual misconduct, and the College's investigatory and other resolution procedures. The formal investigation under this Policy will be conducted as promptly and equitably as possible without compromising thoroughness.

At the initiation of the formal investigation, the Title IX Coordinator will provide the parties with written notice that includes:

1. The date, time, and location, if known, of the alleged incident(s) to be investigated;
2. An explanation of the investigation process including the parties' rights in the process and a link to or copy of the process and procedures;
3. All known charges to be investigated, listing the specific portion(s) of the Gender-Based Misconduct Policy and [\*Community Code of Student Conduct\*](#) alleged to have been violated, and by what actions;
4. A statement that charges are allegations and do not reflect any presumption of responsibility and a determination regarding responsibility will be made after the conclusion of the investigation process;
5. Notice that parties each may have one advisor of their choice, who may be but is not required to be an attorney, to provide emotional support and advice to them throughout the process;
6. Notice of Babson's prohibition against retaliation; and
7. Notice to the parties of the expectation regarding student honesty (see the Student Code of Conduct's False Information and Misrepresentation policy ).

After the Title IX Coordinator identifies who will be appointed to investigate the charges, the Title IX Coordinator will also inform the parties in writing who has been appointed to conduct the investigation. If any party believes an appointed investigator is biased or conflicted from fairly investigating the matter, they must timely notify the Title IX Coordinator 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 investigators 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 investigators is final.

**The appointed investigator(s) will:**

1. Commence a thorough and impartial investigation by developing an investigation plan, including a witness list, intended investigation timeframe, and order of interviews for parties and witnesses ;
2. Provide regular updates on the investigation to the Title IX Coordinator and/or Deputy Coordinator;
3. Determine whether or not respondent was responsible for violating one or more specific portions of Babson's Gender-Based Misconduct Policy and/or other College policies cited in the notice of charges, based on the preponderance of the evidence. Under this standard, the respondent is presumed not to have violated the Gender-Based Misconduct Policy or any other College policy unless a preponderance of the evidence supports a finding that a violation occurred. A preponderance of the evidence indicates that it is *more likely than not* that the identified portion of the Policy was violated by the respondent.

**Investigations shall proceed generally as follows:**

1. The investigator(s) will seek to conduct interviews with the complainant, respondent and any witnesses deemed appropriate by the investigator(s).
  - a. Both the complainant and respondent will be invited to participate in an interview and will be asked to provide names of relevant witnesses. Even if a party declines to themselves be interviewed, all parties are asked to notify the investigator(s) in writing, as soon as possible, of any witnesses known to the party whose account or information they wish for the investigator(s) to consider. The investigator(s) will, in their sole discretion, determine which witnesses to interview. Witnesses are typically limited to people with firsthand knowledge of the issues or events being reviewed, or individuals with whom the parties discussed the events under review. Character witnesses and character statements are not permitted.
  - b. During parties' interviews and other meetings that are part of the investigative process, a party's advisor may ask clarifying questions about process, but may not otherwise speak on behalf of the party. An advisor may ask to suspend a meeting or interview to briefly consult with the party they are supporting.

2. All interviewed parties and witnesses will be asked to submit relevant documentary evidence (e.g., photographs, video recordings, text messages, reports, phone records, etc.) to the investigator(s). The investigator(s) will gather and review available documents, materials, or other identified evidence relevant to the investigation.
3. The investigator(s) will not request from any party or witness any information that is protected by a legal, medical, or other recognized privilege, unless the person who has the rights to that privilege provides written consent to provide such information to the investigator(s).
4. After each witness (non-party) interview, the investigator(s) will provide the witness with a written summary of potentially relevant information from the interview or a transcript of the interview (if the interview was recorded). The interviewed witness will then be afforded a reasonable opportunity to review the interview summary or transcript to confirm its accuracy or to provide written clarifications, comments, and/or corrections. The investigator(s) shall review any written clarifications, comments or corrections that are submitted and incorporate those deemed relevant and appropriate into the final interview summary or transcript to be included in the investigation case file. Comments that conflict significantly with information previously submitted by the interviewed party will be noted.
5. During the investigation, the investigator(s) will afford the complainant and respondent an opportunity to respond to information provided by other parties, including witnesses. This information will typically be shared verbally with parties during their interview.
6. At the conclusion of the investigation, but before any determinations are made by the investigator(s), the investigator(s) will offer the parties and no more than one advisor per party an opportunity to review the information included in a case file which includes all written interview summaries or transcripts in the case of recorded interviews, and documentary evidence deemed potentially relevant by the investigator(s). The investigator(s), in consultation with the Title IX Coordinator, will use their discretion about what evidence and information will be included in the case file. Redactions may be made as deemed necessary in the sole discretion of the investigator(s). There may be restrictions on the evidence included in the case file, including certain evidence regarding prior sexual history or character evidence which may not be considered relevant by the fact finder. However, the case file shall include all information collected by the investigator(s) that is relevant to the allegations raised, regardless of whether the College will consider such information in reaching a determination of responsibility.

7. Parties will be afforded ten (10) calendar days after being provided access to the case file to submit to the investigator(s) a written response to the evidence gathered, including but not limited to any corrections or clarifications to the summaries or transcripts of their own interviews. The parties' written responses to the case file may identify additional relevant information or documentation, and/or suggest new witnesses who possess material information. However, parties are expected to identify relevant information and witnesses they wish for the investigator to interview prior to evidence review, and the investigator has discretion to decline to interview additional witnesses a party identifies after evidence review if the party earlier knew or should have known the witness(es) possessed relevant information.
  - a. 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 investigator(s) before they complete an investigation report. The investigator(s) may determine that additional investigation is necessary based on the parties' written submissions, or that no additional investigation is needed.
  - b. Any information in parties' written responses to the case file which the investigator(s) in their discretion deem potentially relevant will be added to and included in the case file, and the investigator(s) may redact from parties' written responses and not consider information that is irrelevant or impermissible for consideration under this Policy. If either party identifies additional relevant evidence, that evidence shall be gathered by the investigator(s) to the extent reasonably possible and will also be included in the case file. Depending on the nature of the new evidence, the investigator(s) may share such new evidence with the other party for their review and comment before the investigator(s) complete their written investigative report.
8. The investigator(s) will determine when the case file is complete and includes all relevant evidence obtained during the investigation.
9. The investigator(s) will review the case file and reach written conclusions as to whether or not the respondent violated Babson's Gender-Based Misconduct Policy and/or any other charges in the notice of charges based on a preponderance of the evidence standard.
10. The investigator(s) will send the case file and their written conclusions to the Title IX Coordinator for review, who shall review the case file and written conclusions to ensure the following:
  - a. The investigation was thorough, reliable, and impartial;
  - b. The conclusions were based on the evidence collected;
  - c. The conclusions were based on the preponderance of the evidence; and
  - d. The Policy was applied appropriately.

If the Title IX Coordinator determines that any further steps are necessary to meet any of these requirements, they will so inform the investigator(s) who will take the necessary steps and return the case file to the Title IX Coordinator for further review.

*Note: regardless of the investigative findings, the Title IX Coordinator and Deputy Coordinator will assess what, if any, remedies are necessary for the complainant and/or community, to address the incident.*

11. Upon approval of the case file and the investigator(s)' Final Report, which includes their written conclusions, the Title IX Coordinator will attempt to meet separately with both the complainant and the respondent to deliver the investigators' findings, will offer the parties support if needed, and will review next steps in the grievance process. Regardless of whether a party participates in an investigative outcome meeting with the Title IX Coordinator the Title IX Coordinator will deliver the investigators' Final Report to all parties no later than 7 business days after the investigator(s)' Final Report is finalized. When providing parties with the Final Report and the investigative findings, the Title IX Coordinator will:
  - a. Provide parties with a downloadable copy of the final report (which they can then share as they wish with their advisors) or make the final report available electronically in a secure manner to both parties and, upon request, to their advisor(s) for their review (in cases involving multiple complainants or respondents, necessary redactions may be made in the discretion of the Title IX Coordinator to only share with parties information relating to charges involving them);and
  - b. Explain in writing the next steps in the process:
    - a. Sanction process if the finding is responsible (see section IX below)
    - b. Appeal process if the finding is not responsible (see section X below).



## **IX. SANCTIONS PROCESS**

1. If the investigator(s) determine that respondent violated Babson's Gender-Based Misconduct Policy, after reviewing both the case file and the investigators' Final Report, the Deputy Title IX Coordinator for Campus Life or their designee will serve as the sanctioning officer and determine whether they will meet with the complainant and/or respondent to discuss potential sanctions in addition to the parties' option to submit a written impact statement. Neither sanction meetings nor written impact statements are an opportunity for parties to challenge or contest the findings of the investigation. Each party shall have two business (2) days from the date of the delivery of the investigator(s)' findings to submit a written impact statement to the sanctioning officer. The written impact statement is intended to provide relevant information in determining the appropriate sanctions, including, but not limited to, how the incident has affected the impacted party, and whether they believe any mitigating or aggravating facts and circumstances warrant leniency or enhanced sanctions. The sanctioning officer in their discretion may invite parties to meet with them for a sanctioning meeting; typically, any such meetings will occur after the deadline for parties to submit written impact statements. The sanctioning officer will not share with either party impact statements that were submitted by the other party or private information that was shared by the other party during sanctioning meetings.
2. The sanctioning officer may confer with the Title IX Coordinator or Deputy Title IX Coordinator regarding potential sanctions and remedies. The sanctioning officer also reserves the right to meet with other relevant parties, including but not limited to the investigator(s) or witnesses, if they believe it will assist them in determining appropriate sanctions.
3. Before determining sanctions, the sanctioning officer will consider: i) the case file and investigator(s)' Final Report, ii) the respondent's prior disciplinary record, if any, and iii) any written impact statements or content from impact meetings which occurred with either party.
4. The sanctioning officer has five (5) business days from the last meeting with a relevant party, and after the deadline for the parties' submission of impact statements, to issue a written sanction decision letter with rationale to both parties. Sanction decision letters will be sent via email to parties' Babson email account (or non-Babson email account for parties who are non-Babson students).
  - a. It is important to note that once imposed, sanctions are enacted immediately. While an appeal is pending, any sanctions may be suspended or modified at the discretion of the Title IX Coordinator or their designee, as applicable. If the appeal is denied, the original sanction(s) will be immediately reinstated except applicable deadlines may be modified to accommodate the delayed period. If the responding student or student organization has been subjected to Interim actions, those restrictions may stay in place through the conclusion of the Appeals Process unless the parties are otherwise informed in writing.
  - b. The College will not require either party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the re-disclosure of information related to the outcome of the proceeding.

c. Sanction Guidelines:

The standard sanction for any student found responsible for non-consensual sexual penetration is suspension or expulsion. Any student found responsible for violating other provisions of this Policy will receive a sanction up to and including expulsion, determined in the discretion of the sanctioning officer to appropriately address the severity of the incident and taking into account any previous disciplinary history.

The sanctioning officer may deviate from this range of recommended standard sanctions in the case of serious mitigating or aggravating circumstances. However, neither the sanctioning officer nor the appeals officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

## **X. APPEAL PROCESS**

Both complainants and respondents have the opportunity to submit an appeal based on the finding of the investigation and/or sanction(s) as set forth below.

### **Guiding principles of the appeal process:**

- Appeals are confined to a review of the case file and any other information deemed relevant by the appellate officer based on one or more of the pertinent grounds for appeal described below. Appeals are not intended to re-hear the allegations or to constitute a *de novo* review of the investigation.
- Absent clear and material error, appeals determinations are intended to be deferential to the original decision-maker (investigator(s) and sanctioning officer). Findings should be revised by the appellate officer only when remanding for further investigation or granting a new investigation would be insufficient, impractical or unnecessary. Sanctions should be revised by the appellate officer only if there is a compelling justification to do so.

An appeal of any findings relating to charges under this Gender-Based Misconduct Policy must be submitted within five (5) business days after the decision letter is delivered to the party's Babson email account (or non-Babson email account for parties who are non-Babson students).

Appeals are permitted only on the following four grounds:

1. Babson's failure to follow the procedures in this Policy, which materially affected the outcome of the matter;
2. New information or evidence that has become available, and that was not reasonably available before the conclusion of the investigation or sanction meeting through the exercise of reasonable diligence, and that could materially change the outcome of the matter. A summary of this new evidence and its potential impact must be included in the written appeal;
3. The Title IX Coordinator, investigator(s) or sanctioning officer had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant(s) or respondent(s), that materially affected the outcome of the matter; or
4. 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.

Babson's Vice President of Learner Success and Dean of Campus Life shall act as the appellate officer. The appeal must be made in writing to the appellate officer and must clearly and succinctly outline and explain how the specific grounds described above have been met.

The party submitting the appeal has the burden of demonstrating how the above grounds have been met.

If any party submits a timely appeal that on its face articulates a potentially valid basis for appeal, the appellate officer will notify the other parties that an appeal was filed and will provide them 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 reconsideration of the decision being appealed.

The appellate officer considering any appeal that was timely filed will typically consider only the written appeal(s), written statement(s), and associated case file and investigative report. In limited circumstances, if a question raised in an appeal is unclear based on the written record, the appellate officer has the discretion to pose specific, relevant questions in writing of any person playing a role in the process, e.g., the sanctioning officer and/or the investigator(s). 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 both parties.

After considering any appeal(s), the appellate officer will take one of the following actions:

1. Reject the appeal as untimely or improper based on the grounds articulated above.
2. Uphold the original decision and/or sanction.
3. Grant the appeal and:
  - Remand the case with specific instructions to the sanctioning officer for further consideration with respect to sanctioning or, in the rare circumstances in which it would be impractical, improper, or infeasible to remand the case, grant a new investigation.
    - If remanded for further investigation, any resulting sanction may be appealed.
    - If the appellate officer remands to the sanctioning officer for review of the sanction, the reconsideration of the Deputy Title IX Coordinator is final.
  - Modify the sanction(s) by reducing or enhancing the sanction(s). A rationale will be provided by the appeal officer when a sanction is modified.
  - In rare circumstances, revise the finding of the investigation from a “not responsible” to a “responsible” finding, or from a “responsible” to a “not responsible” finding.
    - If the finding of the investigation is revised from a “not responsible” to a “responsible” finding, the appellate officer will either determine the final sanction(s) or remand the case to the sanctioning officer to determine the sanction(s). If remanded to the sanctioning officer, the resulting sanction(s) may be appealed.

The complainant and the respondent will receive contemporaneous written notification of the appellate officer’s decision regarding the appeal(s) at their Babson email accounts (or non-Babson email account for complainants who are non-Babson students). Except where the case is remanded or a new investigation is granted, the decision of the appellate officer is final and not subject to further review.

## **XI. INFORMAL RESOLUTION PROCESS**

At any point either before or after a complainant files a formal complaint alleging that a student respondent has violated Babson's Gender-Based Misconduct Policy, and before charges are resolved by the College following the conclusion of any formal investigatory or grievance process, either party may ask the Title IX Coordinator to not initiate, or to suspend a formal investigation process and allow the parties to instead attempt to utilize Babson's Informal Resolution ("IR") processes to reach a non-disciplinary resolution agreement between or among the parties.

Upon receiving any party's request to engage in IR to resolve allegations of potential gender-based misconduct, the Title IX Coordinator, in consultation with campus partners as needed, will assess if the alleged dispute may be addressed through IR. If the College determines the dispute may be potentially resolved through IR, the Title IX Coordinator will notify the other party of the request and ask if they also wish to attempt to engage in IR. Informal Resolution options will only be utilized when both parties consent in writing to the option. If both parties wish to suspend a formal investigatory process, the Title IX Coordinator will issue written notification informing the parties of the following:

- The allegations;
- The initiation of an informal resolution process;
- The right of each party to withdraw from the informal process and commence or resume a formal investigation process at any time;
- The right of each party to be supported by an advisor during the informal process;
- The inability to initiate or resume a formal College disciplinary process regarding the exact same allegations if the parties reach an agreed upon successful resolution through the informal process;
- Information regarding the records that will be retained after an information resolution process is complete; and
- That the parties have five (5) calendar days after issuance of the notification to provide written notice if they consent and wish to engage in the Informal resolution process.

If both parties timely confirm, after receiving the above Notice of Informal Resolution, that they wish to engage in IR, the Title IX Coordinator will then appoint a trained and independent facilitator and will notify the parties of the identity of that facilitator who will directly engage with the parties and work with them to attempt to successfully resolve the matter through IR. If a formal grievance process under this Policy began before IR was initiated, the Title IX Coordinator will temporarily suspend the formal grievance process while the parties attempt to resolve the matter through IR.

If parties reach a successful Resolution Agreement through IR, both parties must comply with the terms of that agreed upon Resolution Agreement, and a student who reportedly fails to abide by the terms of an IR Resolution Agreement may be referred to the Community Standards process. Further information about Babson's Restorative Justice and Alternative Resolution Process for students can be found in Babson's [Community Code of Student Conduct](#).

## **XII. OTHER PROVISIONS**

### **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 [accommodations@babson.edu](mailto:accommodations@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 to students for certain violations of policy, including but not limited to the possession and/or consumption of drugs or alcohol, 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. Preventing and addressing gender-based misconduct is a priority for the College and the College does not want a student's concern that they will face discipline for violations of student conduct which do not cause significant harm to others to inhibit their reporting of gender-based misconduct or cooperation with an investigation. When amnesty is granted for violations of policy, the

College may refer students to support resources and require completion of education, such as alcohol and/or drug education, but there will be no disciplinary record or sanction regarding any violations for which amnesty was granted. The Deputy Title IX Coordinator will determine what policy violations will be eligible for amnesty in this context. Amnesty for policy violations may be extended to all parties involved in the case, including but not limited to, complainant(s), respondent(s) and witnesses.

### **Attendance**

To enable the most accurate and fair review of the facts, parties are encouraged to attend and participate in meetings throughout an investigation under this Policy. If an individual chooses not to attend one or more meetings, a decision will be made regarding continuation of the investigatory or grievance process based on the information and evidence available. No inference may be drawn against a student for failing to attend a meeting or remaining silent, and no decision shall be based solely on the failure of the respondent to attend one or more meetings, to participate in such meeting(s), or to answer the charges.

### **Burden of Gathering Evidence**

The College, not the parties, maintains the obligation to collect relevance evidence under this Policy. Notwithstanding this burden, the parties are strongly encouraged to provide the investigator(s) with the identities of potential witnesses and with documentation or other evidence they wish to be considered in the investigation.

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

When a complaint alleges that a respondent both engaged in conduct that potentially violates both this Policy and other College policies, the Title IX Coordinator will coordinate Babson's response to the allegations with community partners and the College may in its discretion resolve only some or all of the charges pursuant to the process in this Policy.

### **Delays or Extensions**

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.

The College will make a good faith effort to resolve 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 Informal Resolution process.

Although meetings are not generally delayed or rescheduled due to an adviser's schedule or availability, Babson's Title IX Coordinator or Deputy Coordinator will consider a party's request to delay or reschedule a meeting and will make the final determination in their sole discretion.

### **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.

### **Effect of Criminal Proceedings**

Because the standards for determining a violation of criminal law are different from the standards for determining a violation of this Policy, criminal investigations, reports, or outcomes are not determinative of whether gender-based misconduct has occurred for purposes of this Policy. In other words, conduct may constitute gender-based misconduct under this Policy even if there is insufficient evidence of a crime or if law enforcement agencies decline to prosecute. The filing of a complaint of gender-based misconduct under this Policy is independent of any criminal investigation or proceeding, and the College will not await the conclusion of any criminal investigation or proceedings to: (i) commence its own investigation; (ii) issue interim restrictions to protect the complainant and the College community, if necessary; and/or (iii) implement disciplinary proceedings without regard to any pending criminal proceedings.

### **False Information and Misrepresentation**

Any Babson community member who participates in an investigation under this Policy, either as a party or a witness, is expected to be completely honest throughout the process. Any Babson community member who chooses to participate in the process and knowingly makes a false statement—either explicitly or by omission- in connection with the process may be subject to separate College disciplinary action. If the College has reason to believe a student knowingly provided false information to the College in connection with a grievance process under this Policy, they may be charged with “false information and misrepresentation” under the [Community Code of Student Conduct](#).

The College will not tolerate false reporting and reserves the right to discipline members of the College community who knowingly bring false complaints of alleged misconduct or provide false information during an investigation. No complaint will be considered "false", however, solely because it cannot be corroborated.

### **Preponderance of Evidence Standard**

The standard of evidence that Babson College uses to determine responsibility for violating this Policy, as well as any other 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 with others about their experiences, but they are expected to maintain privacy regarding any information they learned through the investigation process under this Policy. 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 or meeting 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.

### **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.

## **XIII. PREVENTION, EDUCATION, AND TRAINING**

The College engages in a comprehensive and educational approach to programming that addresses the multiple levels of influence around violence and victimization being mindful of the individual, their relationships, and their community and cultural environments. By building relationship skills, discussing policy, procedure, and practice, addressing social norms, and promoting bystander intervention, Babson seeks to change behavior and reduce harm. Educational programming consists of primary prevention and awareness programs – including consent education and bystander intervention for all incoming students, as well as ongoing prevention and awareness campaigns for all students and others in the campus community aimed at promoting healthy relationships and preventing sexual assault, sexual harassment, intimate partner abuse and stalking.

The College has developed an educational curriculum consisting of presentations for populations (including but not limited to): new and returning students; student leaders who have reporting expectations under this Policy; on-call and first line access staff; and Public Safety. Specific considerations in regard to education and programming are made in an effort to be culturally competent in practice and approach. Babson student groups, Babson departments, and community members can contact [wellness@babson.edu](mailto:wellness@babson.edu) if they would like to request and receive training on any topics within an educational curriculum that includes the following programs:

- Gender-Based Misconduct Policy Literacy/Procedure Overview & Reporting
- Bystander Intervention
- Positive Consent
- Healthy Relationships & Boundary Setting
- Trauma-Informed Practice & Crisis Response
- Secondary Trauma
- Responding to Disclosure & Empathetic Listening
- Survivor Inclusive Organizations

#### **XIV. STATE AND FEDERAL AGENCY CONTACT INFORMATION**

Individuals who believe that they have been subjected to 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.