

Policy Against Discrimination and Harassment

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I. POLICY STATEMENT AND SCOPE

Bard College is committed to providing a learning and working environment free from discrimination and harassment. The College is an equal opportunity employer committed to treating all individuals equitably, with respect and dignity. The College prohibits harassment and discrimination in admission, employment, and administration of its programs and activities, on the basis of sex, gender, race (including traits historically associated with race), color, national origin or citizenship, religion, age, disability (including pregnancy-related conditions), gender identity or expression, transgender status, sexual orientation, predisposing genetic characteristics or carrier status, marital or familial status, veteran status, military status, domestic violence victim status, known association or relationship with someone in a protected classification, or any other characteristic protected by federal, state, or local law.

As an institution of higher education, Bard College seeks to inspire curiosity, a love of learning, idealism, and a commitment to the link between higher education and civic participation. Bard College recognizes and honors diverse traditions of scholarship, research, speculation, and artistic expression. The College’s approach to learning encourages thoughtful, critical discourse in an inclusive environment where intellectual ambition, free inquiry, and creativity can thrive.

In keeping with this mission, the College endeavors to foster mutual understanding and empathy among members of the Bard community with an emphasis on reconciliation and restorative practices. This Policy affirms education as an individual right, a redemptive process, and a defining value.

Toward that end, the College will not tolerate any kind of unlawful discrimination or harassment against students, faculty, staff, applicants for employment or admission, visitors, or any other individual providing services to the College. The College is committed to handling complaints of discrimination and harassment in a prompt, equitable, and transparent manner. Violations of this Policy are considered misconduct.

To further this commitment, the College prohibits retaliation for reporting or opposing discrimination or harassment, and for participating in or otherwise cooperating with an investigation into alleged violations of this Policy.

This Policy applies to the entire College community and its affiliates, including all faculty, staff, students, applicants, and members of the Board of Trustees. Non-community members (e.g. visitors to the College, vendors, contractors, and service providers) who are visiting campus, conducting business with the College, or participating in a program or activity are covered by this Policy, where applicable.

This Policy applies to conduct that:

- Occurs on College premises;
- Occurs in the course of any College-sponsored program or activity, regardless of location (e.g., Bard-sponsored study abroad, research, or internship programs). “Program or activity” also includes computer and internet networks, digital platforms, and computer hardware or software owned, operated by, or used in the operations of the College; or
- Occurs off campus but has continuing adverse effects and/or causes substantial disruption on College premises or in any Bard program or activity.

This Policy should be interpreted and applied in a manner consistent with the principles of free inquiry, free expression, and free speech to which Bard College is committed. It should not stifle free expression or the exchange of ideas, which are essential to Bard’s mission and community. This Policy should be interpreted and applied in a manner consistent with the College’s *Statement on Academic Freedom* and *Free Speech Policy*. The College is dedicated to providing the freedom to communicate and question; our educational environment is premised upon these very ideals. Both inside and outside of the classroom, all members of the College should feel comfortable challenging assumptions and debating controversial issues in a thoughtful and respectful manner. However, prohibited discrimination, harassment, and retaliation are neither legally protected expression nor the proper exercise of academic freedom.

When free inquiry, free expression, or free speech in an academic setting is at issue, the Dean of the College and/or Associate Deans of the College, in consultation with the Civil Rights Coordinator and AAUP or faculty governance groups as necessary, will conduct an initial review of the concern. Examples of this may include a faculty member’s syllabus, course materials, classroom discussion, or pedagogy being questioned. Such concerns may be forwarded to the Civil Rights Coordinator for investigation if deemed appropriate by the Dean of the College or Associate Deans. When these concerns involve staff members and whether or not the questioned speech is protected by Bard’s Free Speech Policy, the Civil Rights Coordinator will consult with the Vice President for Administration, and/or anyone else deemed appropriate. When the concern involves student life and whether or not the speech is protected, the Civil Rights Coordinator will consult with the Vice President for Student Affairs and/or anyone else deemed appropriate.

When conduct may involve more than one policy, the College will determine which policy governs. Allegations of gender-based misconduct, including sexual or gender-based harassment, sexual assault, sexual exploitation, intimate partner violence, and stalking committed against students and employees, are governed by the College’s *Gender-Based Misconduct Policy*. Claims of both Title IX and College Category violations may be investigated and adjudicated using that policy.¹ The College has the sole discretion to determine whether

¹ Title IX Category violations include any conduct on the basis of sex that occurs in Bard’s education program or activity against a person in the U.S. that satisfies one or more of the following: (i) an employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo); (ii) unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity; (iii) sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; (iv) dating violence, which includes any violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; (v) domestic violence (as defined in the VAWA amendments to the Clery Act); and (vi) stalking. College Category violations include sexual and gender-based harassment that occurs off-campus, outside of the United States, or when the Complainant is not participating or seeking to participate in the College’s education program or activity, and instances where the College does not have influence or control. It includes sexual harassment that does not meet the threshold of severe, pervasive, and objectively offensive.

reported conduct is covered by this Policy.

There may be instances where this Policy and another separate policy must be followed. This may include situations related to processing a grievance or complaint under the Faculty Handbook, Employee Handbook, or an applicable collective bargaining agreement between the College and a union that has been designated as the representative of certain classifications of employees. In such instances, the Civil Rights Coordinator will ensure, to the extent possible, that this Policy and other required processes are reconciled in a manner that addresses the complaint while affording all parties with the rights and expectations outlined in all applicable policies and agreements. Respondents who are found responsible for a violation of this Policy and whose terms and conditions of employment are governed by a collective bargaining agreement between the College and a union have the right to employ the grievance process outlined in the collective bargaining agreement.

II. DEFINITIONS OF PROHIBITED CONDUCT

Bias Incident: Bias incidents refer to conduct, speech, expression, or images that targets groups or individuals on the basis of sex, gender, race (including traits historically associated with race), color, national origin or citizenship, religion, age, disability (including pregnancy-related conditions), gender identity or expression, transgender status, sexual orientation, predisposing genetic characteristics or carrier status, marital or familial status, veteran status, military status, domestic violence victim status, or any other characteristic protected by federal, state, or local law. Bias incidents may include, but are not limited to: name calling; use of epithets, slurs, or degrading language directed toward the targeted person or group; vandalism, symbols, and other offenses against property involving graffiti or degrading images; threats; or harassment. In certain circumstances, a bias incident can also constitute prohibited harassment and/or discrimination under this Policy.²

Discrimination: Unlawful discrimination is defined by federal and state law and includes different, adverse, or unfair treatment of a person or class of people based upon their actual or perceived membership in a protected category. This includes employment and educational decisions made on the basis of personal characteristics that are protected by law (e.g. sex, gender, race, color, national origin, religion, age, disability, gender identity, transgender status, and sexual orientation).³ Educational decisions can include actions related to academic standing, grades, participation in programs or activities, athletic opportunities, receipt of financial aid, grants, leaves of absence, or other terms or conditions affecting one's education.

Harassment: For purposes of this Policy, harassment is unwelcome conduct (verbal, visual, written, or physical) directed at an individual or group because of a person's actual or perceived protected classification. This includes conduct that: (i) has the purpose and/or effect of interfering with an individual's work, academic performance, or ability to participate or benefit from the College's programs; (ii) creates an intimidating, hostile, or offensive learning or working environment; (iii) subjects an individual to inferior terms, conditions, or privileges of employment or education; or (iv) is made either explicitly or implicitly a term or condition of employment or education. Members of the Bard community have a right to be free from unlawful harassment. Harassment is a form of discrimination. Some examples of conduct that may constitute prohibited harassment include, but are not limited to:

- Verbal: Innuendoes; name calling; epithets; teasing, mocking, degrading, or ridiculing another person or group; derogatory comments or slurs; offensive jokes; propositions; threatening, suggestive, or insulting

² Not every bias related incident will be a violation of College policy or law. All reported incidents will be reviewed and evaluated based on the specific incident and the nature and severity of the behavior.

³ Pursuant to federal and state law, it is illegal and a violation of this Policy to discriminate against individuals with respect to employment decisions and educational programs/activities including, but not limited to: (i) hiring, recruitment, and selection; (ii) salary, compensation, or classification of individuals; (iii) work assignments or status; (iv) transfer, promotion, layoff, or recall; (v) discipline, discharge, layoffs, leaves of absence; (vi) job advertisements; (vii) testing; (viii) use of or access to campus facilities; (ix) job training, benefits, and apprenticeship programs; (x) fringe benefits; (xi) pay, retirement plans, and/or disability leave; (xii) other terms and conditions of employment or education; and (xiv) employment based on stereotypes or assumptions about the abilities, traits, or performance of individuals based on their membership in a protected class.

sounds, phone calls, or social media posts.

- **Visual/nonverbal:** Derogatory posters, photographs, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; obscene gestures or exhibitionism. This includes any transmission of such offensive material through the mail or use of an electronic medium (e.g. text messages, email, social media).

Harassment is prohibited regardless of whether the individual engaging in the conduct is in the same protected class as the individual or group impacted by the conduct. Harassment does not include conduct that amounts to petty slights or trivial inconveniences. As stated in Section I, allegations of sexual or gender-based harassment are specifically addressed in the College's *Gender-Based Misconduct Policy* and the College has discretion to decide which policy to use.

Retaliation: Retaliation is the adverse treatment of an individual because they have made a complaint of discrimination or harassment under this Policy, opposed a discriminatory practice, or participated in an investigation or proceeding related to allegations of discrimination or harassment. Retaliation can include, but is not limited to: intimidation; threats; confrontation; trying to find out who raised a complaint; or other action that could discourage a reasonable person from making or supporting a complaint or participating in an investigation or proceeding. Individuals are protected from retaliation irrespective of whether the underlying complaint is ultimately found to have merit.

False Reporting: An individual who is determined to knowingly have made a false or bad faith complaint or accusation, or who provided false information during an investigation, may be subject to disciplinary action by the College. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated.

Corrective Action for retaliation and false reporting may include, but is not limited to: written reprimand/warning; demotion; transfer; suspension; dismissal; expulsion; or termination

III. PROCEDURES FOR REPORTING AND/OR FILING A COMPLAINT

Bard College encourages prompt reporting of all perceived incidents of bias, discrimination, harassment, or retaliation. Anyone may seek advice, guidance, and/or information on matters relating to discrimination and harassment without having to make a formal complaint. Any individual can speak to the Civil Rights Coordinator or the Deputy Civil Rights Coordinator regarding questions about a potential complaint.

A "Complainant" is an individual alleged to have experienced misconduct. A "Respondent" is an individual alleged to be responsible for misconduct. Once an individual chooses to pursue a formal complaint, they should file the formal complaint in writing. Verbal complaints received from the College may still be investigated, depending on the specific circumstances of the report. Complaints should: (i) summarize the alleged discriminatory, harassing, or retaliatory behavior; (ii) state when, where, and how the conduct occurred; and (iii) identify witnesses who were involved in, observed, or have knowledge of the conduct.

To the extent possible, all evidence should be shared with the Civil Rights Coordinator and/or preserved, whether or not a formal complaint is made. Examples of evidence may include, but are not limited to: text messages; emails; social media communications; phone records; and photographs. While there is no fixed time period for reporting incidents, if a Respondent has left the College and/or significant time has passed, the ability for the College to investigate will be limited and/or impossible.

A. Options for Reporting and/or Filing a Complaint

Individuals reporting a possible violation of this Policy should report as described below while keeping in mind that each individual is free to make a report to any of the offices listed.

Students can report to: (i) the Dean of Student Affairs Office; (ii) the Office of the Dean of Inclusive Excellence; (iii) the Office of the Dean of the College; (iv) the Civil Rights Coordinator; or (v) the Deputy Civil Rights Coordinator.

Faculty can report to: (i) the Office of the Dean of the College; (ii) the Human Resources Office; (iii) the Civil Rights Coordinator; and (iv) the Deputy Civil Rights Coordinator.

Staff can report to: (i) the Human Resources Office; (ii) the Office of the Dean of Inclusive Excellence; (iii) the Vice President for Administration; (iv) the Civil Rights Coordinator; and (v) the Deputy Civil Rights Coordinator.

Misconduct Reporting Line: In addition to the above resources, all individuals also have the option of contacting the Misconduct Reporting Line at 888-323-4198. This line is administered by an external entity on behalf of the College. Complaints involving potential conflicts of interest can be reported here and may be handled externally. Any alleged policy violations will be referred for investigation in accordance with the procedures set forth in this Policy.

B. Assessment

Upon receipt, complaints will be shared with the Civil Rights Coordinator or the Deputy Civil Rights Coordinator, who will be responsible for assessing the complaint and determining which College policies apply and what options exist. For faculty respondents, this assessment will be done in consultation with the Dean of the College or Associate Deans and/or the Faculty Executive Committee as appropriate. For staff respondents, this assessment will be done in consultation with the Vice President for Administration; and for student respondents, this will be done in consultation with the Vice President for Student Affairs.

A formal complaint may be dismissed if: (i) it does not allege behavior which if true, would violate this Policy; (ii) the alleged speech or expression is protected and/or does not violate the law; or (iii) the Complainant wishes to withdraw their complaint.

Regardless of whether a formal complaint is ultimately made, the College may choose to investigate and take steps to examine and/or remedy allegations of harassment, discrimination, and retaliation. The Civil Rights Coordinator will determine this in consultation with either the Dean of the College, an Associate Dean, the Vice President for Administration, the Vice President for Student Affairs, or any other appropriate member of the College. In certain situations, after the above mentioned consultation, the Civil Rights Coordinator can determine whether to investigate, and the scope of the potential investigation.

C. Free Inquiry, Free Expression, and Free Speech in Academic Settings

Any individual who wishes to make a complaint that relates to academic topics should contact the Dean of the College or an Associate Dean. The Dean and/or Associate Deans, in consultation with the Civil Rights Coordinator, will conduct an initial review and will consult as appropriate with faculty governance groups and/or AAUP. Complaints regarding speakers invited to campus should be made to the Office of the Dean of the College and/or the Vice President for Student Affairs. These complaints will only be forwarded formally to the Civil Rights Coordinator for investigation when necessary. Similarly, in instances where freedom of expression and free speech arise in the context of student life, the Vice President for Student Affairs in consultation with the Civil Rights Coordinator will make a determination of whether or not the speech involved is protected by Bard's Free Speech Policy; in instances where staff have complaints regarding freedom of expression, the Vice President for Administration, in consultation with the Civil Rights Coordinator, will determine whether or not the speech or expression is protected.

D. Confidential Resources and/or Private Communications

All aspects of proceedings under this Policy will remain private to the extent that they can be. Information related to a complaint will be shared with a limited number of people in the Bard community who "need to

know.” Bard College offices and employees will maintain privacy to the greatest extent possible.

The College has designated certain individuals as confidential resources, who do not have a responsibility to report, in accordance with applicable state law. People with this designation are not required to report complaints or allegations of misconduct. Confidential resources are not required by law or College policy to disclose reports of discrimination, harassment, or retaliation, except in extreme circumstances, including a health or safety emergency.⁴

On-Campus Confidential Resources	
Counseling Services and Health Services	845-758-7433
Chaplaincy	845-758-7335
EAP (Employee Assistance Program)	800-272-7255
BRAVE (24/7 Peer Hotline)	845-758-7777

Off-Campus Confidential Resources	
Family Services Rape/Sexual Assault Hotline (Dutchess)	845-452-7272
Family Services Domestic Violence Hotline (Dutchess)	845-485-5550
LGBTQ Antiviolence	212-714-1141

IV. SUPPORTIVE MEASURES AND ACCOMMODATIONS

Following a report of discrimination or harassment, the College will offer and implement appropriate and reasonable supportive measures to the parties to help ensure safety and well-being, prevent retaliation, avoid an ongoing hostile environment, and to promote an accessible educational and employment environment. Supportive measures are offered free of charge and are intended to restore or preserve, to the extent practicable, equal access to the College’s educational programs and employment environment. Supportive measures are non-disciplinary, non-punitive individualized services that are implemented in a way that does not unreasonably burden another party. The Complainant and Respondent are entitled to an advisor of choice to accompany, support, and advise them throughout this process. An advisor can be a friend, family member, mentor, or union representative. Parties are not permitted to designate someone who will act as an attorney to be their advisor of choice. The Office of Title IX and Nondiscrimination can assist with finding an advisor. Advisors are expected to maintain privacy of records that are shared with them.

V. INFORMAL RESOLUTION PROCEDURES

In academic communities such as Bard, conflicts, differences, and disagreements of varying seriousness are inevitably going to occur. These incidents may or may not violate this Policy. In certain instances, the most effective way to resolve these issues can be through an Informal Resolution. An Informal Resolution can often end the offending conduct without involving the Formal Complaint Process. It allows for alternative ways to resolve the situation and address the concerning behavior without having to go through the Formal Complaint Process. The College retains discretion to process complaints through Informal Resolution without the

⁴ In accordance with the Clery Act, information shared with confidential resources may be reported for statistical purposes without identifying information.

requirements of the formal complaint procedures of this Policy. Certain allegations of harassment are not appropriately handled through informal mechanisms and the College retains the right to investigate any complaint in a formal manner or to take whatever other actions it deems appropriate with or without Complainant's consent.

Informal Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policy. Although there is an expectation of privacy for what Facilitators share with parties during meetings, parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree to not disclose related to an Informal Resolution. Information shared for the purpose of an Informal Resolution will not be considered in a later formal proceeding, unless that same information is independently offered at a formal proceeding and deemed admissible.

Examples of Informal Resolutions include, but are not limited to:

- Instances where the parties agree to resolve the matter through an Alternate Resolution mechanism (See Section A);
- Matters where the Respondent accepts responsibility for violating a policy provision, and wishes to accept a Corrective Action and end the resolution process; and
- Matters where the Complainant desires an apology and/or supportive measures.

A. Alternate Resolution Mechanism

Alternate Resolution is an informal process by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternate Resolution mechanism. Alternate Resolution can include mediation, restorative justice practices, or other dispute resolution mechanisms as deemed appropriate under the circumstances. The ultimate determination of whether an Alternate Resolution is available, successful, or appropriate is to be made by the Civil Rights Coordinator.

The Civil Rights Coordinator will appoint an appropriate Alternate Resolution Facilitator, who is free from conflicts of interest and bias. The Facilitator will not be available as a witness in any Formal Complaint Process that may occur should the Informal Resolution process end before a resolution has been reached. The Facilitator will only facilitate the interaction between the two parties, and will not listen or take notes for any purpose other than assisting the parties.

If there is no agreement on a resolution, the complaint will be returned to the Formal Complaint Process outlined in this Policy. If a resolution is reached, the Facilitator will draft a document reflecting the agreement between the parties that becomes final once it is signed by both parties. This written and signed resolution indicates that the complaint has been resolved under this Policy without the need for further investigation or adjudication.

The failure to abide by the resolution agreement may result in appropriate responsive or disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

B. Respondent Accepts Responsibility for Alleged Violations

A Respondent may accept responsibility for some or all alleged policy violations at any point during a resolution process. If a Respondent indicates an intent to accept responsibility for all alleged misconduct, the Formal Complaint Process will be paused, and the Civil Rights Coordinator will determine whether an Informal Resolution can be used.

The Civil Rights Coordinator will determine whether all parties and the College are able to agree on responsibility, Corrective Action, and/or remedies. If so, the Civil Rights Coordinator will implement the accepted finding that the Respondent is in violation of College policy and will implement agreed-upon

Corrective Action and/or remedies, in coordination with other appropriate administrator(s), as necessary. If an agreement cannot be reached, the Civil Rights Coordinator may offer Respondent a potential Corrective Action. If a Respondent does not agree to this or any other proposed options, the Complainant may pursue the Formal Complaint Process.

This result is not subject to an appeal once all parties have signed the agreed upon terms of the resolution. If the parties cannot agree on all terms, the Formal Complaint Process will resume. When a resolution is accomplished, any Corrective Action or responsive actions will be promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct on both the Complainant and the community.

VI. FORMAL COMPLAINT PROCEDURES

A. Investigation Procedures

Once the decision to commence a formal investigation is made, the Civil Rights Coordinator will provide the parties with a written Notice of the Investigation and Allegations (NOIA) and appoint either an internal or external Investigator to conduct the investigation. For faculty respondents, the appointment of an investigator will be done in consultation with the Dean of the College or an Associate Dean; the Civil Rights Coordinator will ensure that this Policy and other required processes are reconciled in a manner that addresses the complaint while providing all parties with the rights and expectations outlined in the Faculty Handbook and AAUP collective bargaining agreement.

The NOIA will include (i) a summary of the allegations; (ii) the misconduct being alleged; (iii) the date and location of conduct (if known); and (iv) the specific policies implicated.

The Investigator is charged with conducting a thorough, impartial, reliable, and prompt investigation. The College may appoint any qualified Investigator, internal or external to the College, who does not have a conflict of interest. The Civil Rights Coordinator may also appoint more than one Investigator. The investigation is an impartial fact-finding process. The Investigator will interview each party and relevant witnesses, conduct follow-up interviews as necessary, and gather all available relevant evidence. The Investigator will provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness. Each party will be allowed the opportunity to suggest questions they wish the Investigator to ask of another party and/or witnesses.

The Complainant and Respondent will be given an equal opportunity to present information. At all times, the burden of gathering evidence remains with the College. The Investigator may decline to interview any witness or to gather information the Investigator finds to be not relevant or otherwise excludable. The Investigator will determine the order and method of investigation. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator elects to record interviews, all involved parties will be made aware of such recording.

At the conclusion of the investigation, the Investigator will complete a written investigative report that fairly summarizes the relevant evidence. The Investigator need not include information in their report that the Investigator determines is not relevant or is otherwise excludable. The final investigative report will include the Investigator's opinion on credibility of parties and any witnesses, as well as the Investigator's opinion as to whether or not the preponderance of the evidence supports a finding of responsibility under this Policy.

The Civil Rights Coordinator may determine that allegations arising out of the same set of facts should be consolidated for the purposes of the investigations and/or hearings. In joint investigations, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

B. Hearing

Upon completion of the investigation, a Hearing Panel will be designated by the Civil Rights Coordinator to review the investigative findings and recommended outcome. The Hearing Panel will consist of three people chosen from a pool previously determined by the Dean of the College, Vice President for Administration and Vice President for Student Affairs in consultation with the Civil Rights Coordinator. Each Hearing Panel will consist of two individuals who are internal to the College and one individual who is external to the College. A chairperson will be appointed from the panel. For faculty respondents, the hearing will be conducted in accordance with any applicable Collective Bargaining Agreement and Faculty Handbook.

Selected individuals will not have had any involvement or conflict of interest with the specific investigation or resolution process (including any discussions regarding Informal Resolution) prior to being selected for this role and should recuse themselves if their participation might compromise the integrity of the process. If an individual recuses themselves, the Civil Rights Coordinator will identify a new member of the Hearing Panel. Parties will have 48 hours after receiving notice of the members constituting the hearing panel to raise a conflict of interest concern, unless the conflict is discovered after the 48 hour period.

The Hearing Panel will be responsible for reviewing and considering the investigative report to determine whether the Respondent is responsible or not responsible for the alleged policy violation(s). However, they are not bound by the Investigator's opinions and conclusions. The Hearing Panel has discretion to ask questions of witnesses, collect additional evidence, and hold a hearing as deemed necessary. They will use the "preponderance of the evidence" standard of proof. The "preponderance of the evidence" standard requires a determination as to whether it is more likely than not that a policy violation occurred.

The Hearing Chair will issue a written determination, based upon the majority of the Hearing Panel, that will include the charges adjudicated, findings of fact supporting the determination, conclusions regarding whether or not College policies were violated, and, except as set forth in VI(c)(ii), recommendations for any Corrective Action(s) to be imposed on the Respondent.

Unless appealed pursuant to Section VII, the Hearing Panel's determination will be final.

C. Corrective Action

When there is a finding of responsibility, Corrective Action will be determined as follows: (i) if Respondent is a student, the Corrective Action will be determined by the VP for Student Affairs or Dean of Students; (ii) if Respondent is a faculty member, the Corrective Action will be determined by the Dean of the College and/or the President of the College in accordance with the Faculty Handbook and the AAUP Contract; and (iii) if Respondent is a staff member, the Corrective Action will be determined by the VP of Administration or the Director of Human Resources in accordance with any applicable collective bargaining agreements.

In certain instances, non-punitive and restorative measures are appropriate. The following factors may be considered when determining Corrective Actions:

- The nature, frequency, and severity of the conduct;
- Whether the conduct is physically threatening;
- Safety concerns to the greater campus community;
- The Respondent's state of mind at the time of the violation (e.g. intentional, knowing, bias-driven, reckless);
- Whether the conduct was intentional and/or the resulting hurt was envisioned;
- Respondent's previous disciplinary history;
- The relationship between the Complainant and Respondent;
- The need to remedy the effects of the conduct on the Complainant and/or the community and its impact on an employee's ability to work or a student's ability to participate in academic/campus programs or services;
- The impact on the parties and the impact of potential Corrective Action on Respondent;
- Corrective Actions imposed by the College in other matters involving comparable conduct; and

- Any other lawful factors deemed relevant by the Panel.

Individuals who are found to have violated this Policy may be subject to Corrective Action as deemed appropriate, including, but not limited to: written reprimand/warning; probation; change in academic or employment schedule; change in residence; removal from on campus or College-owned housing; a permanent No Contact Order; educational training; counseling; community restitution; prohibition from certain Bard facilities and/or activities; prohibition from campus; suspension; expulsion; admission revocation; revocation of awards or honors; withholding of degree; degree revocation; demotion; termination of employment; a combination of these; or any other Corrective Action deemed just and proper.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate Corrective Action upon a determination of responsibility. This information is only considered at the Corrective Action stage of the process, and is not shared until then.

All Respondents are expected to comply with the assigned Corrective Action within the timeframe specified. Failure to abide by or complete the Corrective Action may result in additional Corrective Action, and for a student Respondent, may be noted on a student's official transcript.

D. General Timeframe

While some complaints may require extensive investigation, when possible, the investigation of a complaint should be completed within 60 days of receiving the formal complaint. An Informal Resolution would suspend the complaint process for up to 30 days, which can also be extended if both parties consent or for good cause as determined by the Facilitator.

VII. APPEAL PROCESS

A party may appeal: (i) the Hearing Panel's finding; (ii) the Corrective Action imposed; and/or (iii) the College's dismissal of a formal complaint (or any allegations therein). Requests for Appeal should be in writing and be submitted to the Civil Rights Coordinator within 7 days from the delivery of the Notice of Outcome or the Notice of Dismissal.

When a party submits timely written notice of its intent to appeal, the College will notify the other party in writing and implement appeal procedures equally for both parties.

The eligible grounds on which an appeal may be based are:

1. Procedural error that substantially affected the outcome (e.g., substantiated bias or material deviations from established procedures that resulted in significant prejudice);
2. New evidence that was not reasonably available at the time of the investigation and could substantially affect the outcome (a summary of this new evidence and its potential impact must be included); and/or
3. Corrective Action(s) that are disproportionate to the severity of the violation.

Dissatisfaction with the outcome does not constitute grounds for appeal.

If either party submits a Request for Appeal, the Civil Rights Coordinator will notify the other party that this Request has been submitted.

At this time, each party will be given an opportunity to submit a written statement in support of, or challenging, the outcome. Written statements should be submitted within 7 days from notice being given of the Request for Appeal.

Once an opportunity to submit written statements has been given, the Civil Rights Coordinator will direct the Request for Appeal and written statements to a designee of the Board of Trustees of Bard College. If any of the

grounds in the Request for Appeal do not meet the grounds in this Policy, the designee of the Board of Trustees will deny that request and the parties will be notified in writing of the denial and the rationale. This decision will be final.

In deciding an appeal, the designee of the Board of Trustees shall give deference to the Hearing Panel's decision, making changes to the finding only when there is clear error and to the Corrective Action only if there is a compelling justification to do so in accordance with the grounds provided above. The designee of the Board of Trustees will issue a written decision to both parties describing the result of the appeal and the rationale for the result. Once the appeal decision has been sent to the parties, the appeal decision is final.

Any Corrective Action is stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures previously initiated.⁵

VIII. RESPONSIBILITIES OF MANAGERS

Managers must take steps to create a workplace free of bias, discrimination, harassment, and retaliation. Managers should consult with the Office of Title IX and Nondiscrimination if they become aware of conduct that may violate this Policy. For the purposes of this Policy, managers include: people who have the authority to make major employment decisions, Deans, Vice Presidents, Directors, and other individuals with managerial responsibilities. Managers who fail to report suspected violations of this Policy may be subject to disciplinary action.

IX. EMPLOYMENT AT WILL

This complaint procedure is intended to provide for the prompt and equitable resolution of student and employee complaints alleging discrimination, harassment, and retaliation. It is not intended to create, and does not create, an employment contract or a guarantee of continued employment for any employee. Unless otherwise provided in an agreement or contract, employees of the College remain at-will.

X. ADDITIONAL INFORMATION

Please contact the Office of Title IX and Nondiscrimination with any questions or concerns about this Policy.

Relevant information concerning Nondiscrimination and Equal Opportunity can be found at www.bard.edu/humanresources/training/.

External complaints of bias, discrimination, or harassment may be filed with federal, state, and local agencies. Additional information regarding this process can be found at www.bard.edu/nondiscrimination/policies/.

The Bard College Notice of Nondiscrimination can be found at www.bard.edu/nondiscrimination/policies/.

Additional information and resources can be found at www.bard.edu/nondiscrimination/.

NOTE: This Policy is effective as of August 29th, 2022. It will be used to process all complaints being investigated on or after this date that fall within this Policy. This Policy was formed in consultation with representatives from the College's Senate and the AAUP, who shall periodically review this Policy and its implementation to evaluate its effectiveness and make recommendations to the College. The College retains sole discretion for determining what, if any, revisions to this Policy may be necessary. Please visit www.bard.edu/nondiscrimination/ or contact the Office of Title IX and Nondiscrimination to ensure that you have the latest version for this Policy.

⁵ In rare cases where a procedural or substantive error cannot be cured using the original Hearing Panel (as in cases of bias), the Board of Trustees of Bard College may order a new adjudication with a new Hearing Panel. The results of a new determination of responsibility can be appealed once, on any of the eligible appeal grounds.