

# HARVARD UNIVERSITY

## **Procedures for Handling Complaints Involving Students Pursuant to the Sexual and Gender-Based Harassment Policy**

The Office for Dispute Resolution (“ODR”) has been charged with implementing the following procedures for students pursuant to the Sexual and Gender-Based Harassment Policy (“Policy”). The ODR operates under the Office of the Provost, working in partnership with the University’s Title IX Coordinator<sup>1</sup>, School or unit Title IX Resource Coordinators<sup>2</sup>, and other School or unit leadership.

Harvard students, faculty, staff, other Harvard appointees, or third parties who believe they are directly affected by the conduct of a Harvard student (collectively “Initiating Parties”) may: request information or advice, including whether certain conduct may violate the Policy; seek informal resolution; or file a formal complaint. These three options are described below. Initiating Parties are encouraged to bring their concerns to the relevant School or unit Title IX Resource Coordinator, the University Title IX Coordinator, or staff in ODR, but may, if they choose, contact another School or University officer, who will refer the matter as appropriate.

As set forth below, supportive measures<sup>3</sup> designed to support and protect the Initiating Party or the University community may be considered or implemented at any time, including during a request for information or advice, informal resolution, or a formal complaint proceeding. Consistent with School or unit policy, supportive measures might include, among others: restrictions on contact; course-schedule or work-schedule alteration; changes in housing; leaves of absence; or increased monitoring of certain areas of the campus. These supportive measures are subject to review and revision throughout the processes described below.

### **I. Requests for Information or Advice**

Initiating Parties seeking information or advice can expect to learn about resources available at the University and elsewhere that provide counseling and support. They also will be advised about the steps involved in pursuing an informal resolution or filing a formal complaint. In addition, the School or unit Title IX Resource Coordinator, the University Title IX Coordinator, or staff in ODR may discuss with Initiating Parties whether any supportive measures are appropriate at this stage.

### **II. Requests for Informal Resolution**

Initiating Parties may make a request, either orally or in writing, for informal resolution to the

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<sup>1</sup> Formerly known as the Title IX Officer.

<sup>2</sup> Formerly known as Title IX Coordinators.

<sup>3</sup> Formerly referred to as interim measures.

School or unit Title IX Resource Coordinator, the University Title IX Coordinator, or the Director of ODR. The request should identify the alleged harasser (if known) and describe the allegations with specificity. The School or unit Title IX Resource Coordinator, the University Title IX Coordinator, or the Director of ODR in consultation with the University Title IX Coordinator will assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate.

Upon determining that informal resolution is appropriate, and in instances when the Initiating Party makes the request to the ODR, the Director of ODR will assign the informal resolution to an Investigator. The University Title IX Coordinator or designee, the School or unit Title IX Resource Coordinator, or the Investigator will consult further with the person initiating the request, inform the person who is the subject of the allegations, and gather additional relevant information as necessary from the parties and others, as indicated. The School or unit Title IX Resource Coordinator or the University Title IX Coordinator also may put in place any appropriate supportive measures to protect the educational and work environment. The University Title IX Coordinator or designee, the School or unit Title IX Resource Coordinator, or the Investigator will attempt to aid the parties in finding a mutually acceptable resolution.

When the allegations, if true, might constitute criminal conduct, the party against whom they are brought is hereby advised to seek legal counsel before making any written or oral statements. Those facing allegations may wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

A matter will be deemed satisfactorily resolved when both parties expressly agree to an outcome that is also acceptable to the School or unit Title IX Resource Coordinator. At any point prior to such an express agreement, the Initiating Party may withdraw the request for informal resolution and initiate a formal complaint under these Procedures.

Ordinarily, the informal resolution process will be concluded within two to three weeks of the date of the request.

### **III. Procedures for Formal Complaints**

#### **A. Initiating a Complaint**

An Initiating Party may file a formal complaint alleging a violation of the Policy. A complaint of sexual or gender-based harassment should be filed directly with the ODR, regardless of the identity of the Respondent. (If the Respondent is not a student, see **Referral of Complaints Against Staff, Faculty, Other Harvard Appointees, or Third Parties** below). ODR will inform the School or unit Title IX Resource Coordinator(s) for the Complainant and the Respondent that a complaint has been received, and, if indicated, the School or unit Title IX Resource Coordinator will put in place any appropriate supportive measures.

A formal complaint must be in writing and signed and dated by a Complainant or a third party

filing on behalf of a potential Complainant (Reporter). It should state the name of the alleged harasser (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). The complaint must be in the Complainant or Reporter's own words, and may not be authored by others, including family members, advisors, or attorneys. Attached to the complaint should be a list of any sources of information (for example, witnesses, correspondence, records, and the like) that the Complainant or Reporter believes may be relevant to the investigation. However, a complaint should not be delayed if such sources of information are unknown or unavailable.

ODR will not investigate a new complaint if it has already adjudicated a formal complaint based on the same circumstances or if the parties and the School or unit Title IX Resource Coordinator, the University Title IX Coordinator, or the Director of ODR in consultation with the University Title IX Coordinator already have agreed to an informal resolution based on the same circumstances. Whether or not a complaint is filed with ODR, any person may file a complaint of discrimination with Massachusetts Commission Against Discrimination, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education Office of Civil Rights, or any other state or federal agency having jurisdiction.

### **B. Referral of Complaints Against Staff, Faculty, Other Harvard Appointees, or Third Parties**

These Procedures cover complaints against students. When allegations are asserted against a staff member, faculty member, other Harvard appointee, or third party, ODR promptly will provide the appropriate School or unit Title IX Resource Coordinator with a copy of the complaint. The School or unit Title IX Resource Coordinator, in consultation with other Harvard officers, will determine whether some or all of the allegations will be handled at the School or unit level, or whether ODR will conduct all or part of any investigation, and will inform the Complainant or Reporter.

### **C. Timeframe for Filing a Complaint**

The University does not limit the timeframe for filing a complaint. The University encourages complaints to be filed as soon as reasonably possible following an alleged Policy violation because the University's ability to gather adequate information may be limited where a significant length of time has elapsed between an incident and the filing of a complaint. Further, with respect to those cases that will be reviewed by disciplinary bodies at the conclusion of the investigation, the University's ability to complete its processes may be limited with respect to Respondents who have graduated from or are no longer employed by the University.

### **D. Initial Review**

Once a complaint is received by the ODR, the Director of ODR will assign the case to an Investigator for an initial review. The School with which the Respondent is affiliated may designate an additional individual to work jointly with the Investigator (collectively, the "Investigative Team"). Investigators and School designees will have appropriate training, so that they have the specialized skill and understanding to conduct prompt and effective sexual

and gender-based harassment investigations.

The Investigative Team will contact the Complainant or Reporter in an attempt to gather a more complete understanding of the allegations, as well as any related conduct that may implicate the Policy. When a complaint is brought by a Reporter, the Investigative Team will endeavor to meet with the person identified as the potential Complainant both to gather information and to discuss his or her interest in participating in an investigation.

Based on the information gathered, the Investigative Team will determine whether the information, if true, would constitute a violation of the Policy such that an investigation is warranted or whether the information warrants an administrative closure. The Investigative Team will convey this determination to: the Complainant (and the Reporter, if there is one); the Director of ODR, the University Title IX Coordinator; and the School Title IX Resource Coordinator. The Investigative Team will work with the School Title IX Resource Coordinator to implement any appropriate supportive measures to be put in place by the School pending the completion of the case (or to revise as necessary any measures already in place).

Ordinarily, the initial review will be concluded within one week of the date the complaint was received.

### **E. Investigation**

Following the decision to begin an investigation, the Investigative Team will notify the Respondent in writing of the allegations and will provide a copy of the Policy and these procedures. The Respondent will have one week in which to submit a written statement in response to the allegations. This statement must be in the Respondent's own words; Respondents may not submit statements authored by others, including family members, advisors, or attorneys. Attached to the statement should be a list of all sources of information (for example, witnesses, correspondence, records, and the like) that the Respondent believes may be relevant to the investigation.

If the decision is made to begin an investigation in a case where a Reporter filed the complaint, and the Complainant is unwilling to participate but the School has assessed the severity of the harassment and the potential risk of a hostile environment for others in the community and has determined to proceed, then, for the purposes of these Procedures, the School Title IX Resource Coordinator (or a designee) will be considered the Complainant.

The Investigative Team will request individual interviews with the Complainant and the Respondent, and, as appropriate, with other witnesses, which may include those identified by the parties as well as relevant officers of the School or University or others. When identifying potential witnesses, the parties should understand that the purpose of interviews is to gather and assess information about the incident(s) at issue in the complaint, not to solicit general information about a party's character.

When a complaint involves allegations that, if true, also might constitute criminal conduct, Respondents are hereby advised to seek legal counsel before making any written or oral statements. The investigation process is not a legal proceeding, but Respondents might wish to

obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

After the collection of additional information is complete but prior to the conclusion of the investigation, the Investigative Team will request individual follow-up interviews with the Complainant and the Respondent to give each the opportunity to respond to the additional information.

## **F. Personal Advisors**

Both the Complainant and the Respondent may bring a personal advisor to any interviews with the Investigative Team. A personal advisor should be an officer of the University who is affiliated with the School or unit in which the advisee is enrolled or employed, but may not be related to anyone involved in the complaint or have any other involvement in the process. In the case of students enrolled in interdisciplinary programs, their official academic advisor also may serve as their personal advisor.

Personal advisors may view a redacted version of the complaint or other documents provided to the parties, offer feedback on their advisee's written statements, and provide general advice. During interviews, personal advisors may not speak for their advisees, although they may ask to suspend the interviews briefly if they feel their advisees would benefit from a short break.

## **G. Confidentiality**

The ODR, personal advisors, and others at the University involved in or aware of the complaint will take reasonable steps to protect the privacy of all involved. Once a complaint is filed, the Complainant or Reporter, the Respondent, and any witnesses will be notified of the potential for compromising the integrity of the investigation by disclosing information about the case and the expectation that they therefore keep such information – including any documents they may receive or review – confidential. They also will be notified that sharing such information might compromise the investigation or may be construed as retaliatory. Retaliation of any kind is a separate violation of the Policy and may lead to an additional complaint and consequences.

The parties remain free to share their own experiences, other than information that they have learned solely through the investigatory process, though to avoid the possibility of compromising the investigation, it is generally advisable to limit the number of people in whom they confide.

## **H. Coordination with Law Enforcement Authorities**

In all cases, the Investigative Team will have completed the initial review without delay and, as appropriate, will have proposed supportive measures to the School Title IX Resource Coordinator. In the event that an allegation includes behavior or actions that are under review by law-enforcement authorities, the Investigative Team will, in light of status updates from law-enforcement authorities and the University Title IX Coordinator, assess and reassess the timing of the investigation under the Policy, so that it does not compromise the criminal investigation.

## **I. Conclusion of the Investigation and Issuance of Final Report**

At the conclusion of the investigation, the Investigative Team will make findings of fact, applying a preponderance of the evidence standard, and determine based on those findings of fact whether there was a violation of the Policy.

The Investigative Team will provide the Complainant and the Respondent with a written draft of the findings of fact and analysis and will give both parties one week to submit a written response to the draft. The Investigative Team will consider any written responses before finalizing these sections of the report and the final section of the report, which will outline any recommended measures to be taken by the School to eliminate any harassment, prevent its recurrence, and address its effects. The University Title IX Coordinator and the School will work jointly to put in place such measures as they determine are appropriate. Consistent with School policies, measures imposed at this stage might include, among others: restrictions on contact; course-schedule or work-schedule alteration; changes in housing; leaves of absence; or increased monitoring of certain areas of the campus.

The investigation will be completed and the final report provided to the Complainant, the Respondent, the School Title IX Resource Coordinator, and the appropriate officer in the School or unit, ordinarily within six weeks of receipt of the complaint. The administration of discipline in cases involving students is subject to the authority of the faculty; thus, as appropriate, having received the report, the School separately will consider the imposition of discipline through its own processes and notify the parties as appropriate. For cases involving faculty, staff, other Harvard appointees, or third parties that have been investigated by the ODR pursuant to Section III.B above, the imposition of sanctions will be considered separately by the appropriate officials at the School or unit through their relevant policies.

## **J. Special Circumstances**

### ***i. Request for Anonymity***

If a potential Complainant asks to remain anonymous, then the Investigative Team, the School Title IX Resource Coordinator, or the University Title IX Coordinator, as appropriate, will consider how to proceed, taking into account the potential Complainant's wishes, the University's commitment to provide a non-discriminatory environment, and the potential Respondent's right to have specific notice of the allegations. The Investigative Team, the School Title IX Resource Coordinator, or the University Title IX Coordinator may conduct limited fact finding to better understand the context of the complaint. In some circumstances, a request for anonymity may mean an investigation cannot go forward, or the Investigative Team, the School Title IX Resource Coordinator, or the University Title IX Coordinator may determine that further investigation is necessary, in which case the potential Complainant will be informed that their identity will be disclosed as necessary for the investigatory process. In other circumstances, the Investigative Team, the School Title IX Resource Coordinator, or the University Title IX Coordinator may determine that the matter can be appropriately resolved without further investigation and without revealing the Complainant's identity.

***ii. Administrative Closure***

If, after conducting the initial review of a formal complaint, the Investigative Team finds that the allegation, if true, would not constitute a violation of the Policy, then the Director of ODR will administratively close the case and notify the Complainant (and the Reporter, if there is one), the University Title IX Coordinator, and the School Title IX Resource Coordinator.

Where the Complainant is unwilling to participate in further investigation, the Director of ODR, in consultation with the University Title IX Coordinator, will assess the severity of the alleged harassment or the potential risk of a hostile environment for others in the community and will determine whether administrative closure is appropriate or whether the University should proceed with an investigation.

Within one week of the decision to close a case administratively, the Complainant or Reporter may request reconsideration on the grounds that there is substantive and relevant new information that was not available at the time of the decision and that may change the outcome of the decision. The University Title IX Coordinator or designee will consider requests for reconsideration and inform the Complainant or Reporter of the outcome, ordinarily within one week of the date of the request.

In cases where the Director of ODR concludes that the alleged conduct, while not a violation of the Policy, might implicate other School or University conduct policies, the Director of ODR may refer the complaint to the appropriate School or University official.

***iii. Request to Withdraw the Complaint***

While every effort will be made to respect the Complainant's wishes to withdraw a formal complaint, the University must be mindful of its overarching commitment to provide a non-discriminatory environment. Thus, in certain circumstances, the Director of ODR may determine that investigation is appropriate despite a Complainant's request to withdraw the complaint or failure to cooperate. Other circumstances also may result in a request to withdraw the complaint being declined, where, for example, a request to withdraw is made after a significant portion of the investigation has been completed and terminating the investigation would be inequitable.

***iv. Request for Informal Resolution After a Complaint has Been Filed***

Once a complaint has been opened for investigation and before the final report has been provided to the parties, a party may request informal resolution as an alternative to formal resolution of the complaint, but that disposition requires agreement of the Complainant and the Respondent and the approval of the Director of ODR in consultation with the University Title IX Coordinator and the relevant School or unit.

If such a request is approved, the timeframes will be stayed, and the Investigator or a designee will take such steps as he or she deems appropriate to assist in reaching a resolution. If the parties cannot reach an informal resolution within two weeks from receipt of the request, then the

Investigative Team will resume the investigation of the complaint in accordance with the formal complaint procedures.

#### **IV. Appeal**

Both the Respondent and the Complainant may appeal the decision of the Investigative Team to the University Title IX Coordinator or designee based on the following grounds:

1. A procedural error occurred, which may change the outcome of the decision; or
2. The appellant has substantive and relevant new information that was not available at the time of investigation and that may change the outcome of the decision.

Disagreement with the Investigative Team's findings or determination is not, by itself, a ground for appeal.

Appeals of the Investigative Team's decision must be received by the University Title IX Coordinator or designee within one week of the date of the final report. Likewise, appeals of decisions to administratively close a case or to deny a request to withdraw the complaint must be received by the University Title IX Coordinator or designee within one week of the date of the decision under appeal.

Ordinarily, appeals will be decided within two weeks and the parties and the School Title IX Resource Coordinator promptly will be informed of the outcome in writing.

#### **V. Resources**

[Title IX Resource Coordinators](#)  
[University Title IX Coordinator](#)  
[University Sexual and Gender-Based Harassment Policy](#)

*Additional University Resources:*

[Office of Sexual Assault Prevention & Response](#)  
[HUHS Behavioral Health Services](#)  
[Harvard University Health Services](#)  
[Harvard Chaplains](#)  
[Harvard University Police Department](#)  
[Employee Assistance Program](#)

*Outside Agencies:*

[U.S. Department of Education, Office for Civil Rights \(OCR\)](#)  
[U.S. Equal Employment Opportunity Commission \(EEOC\)](#)  
[Massachusetts Commission Against Discrimination \(MCAD\)](#)

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