

(Draft) Harvard Non-Discrimination Policy

I. Statement of Policy

Harvard University is committed to the principles of equal opportunity in education and employment. Discrimination on the basis of the following protected categories, or any other legally protected basis is unlawful and is prohibited by this policy.

- age (40+)
- race
- color
- national origin
- sex (including gender identity and gender expression, as well as pregnancy)
- genetic information
- ancestry
- religion
- caste
- creed
- veteran status
- disability
- military service
- sexual orientation

This policy and the associated procedures only apply to the categories of discrimination described here. Claims of discrimination on the basis of sex that fall under Harvard's Interim Title IX Sexual Harassment Policy, Interim Other Sexual Misconduct Policy, and Sexual and Gender-Based Harassment Policy should be pursued under those policies and their accompanying procedures. Claims of discrimination on the basis of disability or failure to accommodate a disability are addressed through the University Disability Resource Center Grievance Policy. Violations of other University policies and community standards will be handled according to the procedures specified for those policies and standards.

University policy prohibits retaliation for asserting one's rights to a work and/or educational setting free of discrimination on the bases specified by this policy. Moreover, retaliation against an individual for cooperating in an investigation of such a complaint, or for opposing prohibited practices is prohibited. Submitting a complaint in bad faith or providing materially false or misleading information in an investigation is also prohibited.

II. Definitions

A. Definition of Discrimination

Discrimination is adverse treatment of an individual based on one or more of the protected characteristics listed in this policy. In a university setting, complaints of discrimination may arise in the employment context and the education context, in the following potential forms:

Discriminatory disparate treatment is singling out or targeting an individual for less favorable treatment because of their protected characteristic. In the employment context, the less favorable treatment must negatively affect the terms and conditions of

employment. In the education context, to rise to the level of discrimination, the treatment must unreasonably interfere with or limit the student's ability to participate in or benefit from the institution's programs and activities. For example:

- Failing or refusing to hire or admit an individual because of their protected characteristic
- Imposing more severe discipline on a student or employee because of their protected characteristic;
- Giving a negative performance evaluation or grade/academic assessment because of an individual's protected characteristic;
- Terminating, suspending, dismissing, or expelling an individual based on their protected characteristic.

Discriminatory harassment is unwelcome and offensive conduct that is based on an individual or group's protected status. Discriminatory harassment may be considered to violate this policy when it is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive or, in the education context, would consider as sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of a student to participate in or benefit from the institution's programs and activities. These factors will be considered in assessing whether discriminatory harassment violates this policy:

- Frequency of the conduct
- Severity and pervasiveness of the conduct
- Whether it is physically threatening
- Degree to which the conduct interfered with an employee's work performance or a student's academic performance and/or ability to participate in or benefit from academic/campus programs and activities
- The relationship between the alleged harasser and the subject or subjects of the harassment
- Whether the harasser makes accepting the conduct a condition of participation in the employment or educational activity

B. Other Definitions

Appropriate Official: Each school and Central Administration will define and publish with this policy their Appropriate Officials, who will be the final authority to issue any sanctions, based upon the respondent's role at the university. An example is shown below.

Respondent's Role	Appropriate Official
Student	School Dean or Local Student Disciplinary Body
Staff/Researcher	Human Resources Officer and/or Unit Vice President
Faculty	School Dean

Central Office: The central office that serves the entire university and will work with Local Designated Resources when formal and informal complaints are received; staff or provide referrals to neutral, trained investigators who will manage investigations of formal complaints; provide resources and information to community members with questions about policy, process, or supportive measures; and keep records of reports, complaints, findings and, if any, sanctions consistent with university policies related to recordkeeping.

Local Designated Resource: Each School and Central Administration will designate individual(s) to serve as the resource for receiving reports and complaints, directing community members to resources, and providing information on supportive measures. The Local Designated Resource will coordinate with the Central Office in response to complaints, training, and educational initiatives relevant to the policy.

III. Jurisdiction

This Policy and its accompanying procedures apply to alleged acts of discrimination that are committed by any member of the Harvard community, including faculty, researchers, postdoctoral fellows, staff, and students, but does not apply to alleged misconduct that may fall within the scope of other University policies. Alleged misconduct that is dealt with under other University policies (e.g., those regarding sexual and gender-based harassment and other sexual misconduct, bullying, or research misconduct) will not be covered by this policy unless a determination is made by those responsible for those other policies that the behavior fits more appropriately in this policy. Sexual and gender-based harassment are covered by the University's Interim Title IX Sexual Harassment Policy, Interim Other Sexual Misconduct Policy, and Sexual and Gender-Based Harassment Policy. Claims of discrimination on the basis of disability or failure to accommodate a disability are addressed through the University Disability Resource Center Grievance Policy. Bullying and abuse of power will be covered by the University's Anti-Bullying Policy. This Policy and its accompanying procedures apply when the alleged conduct occurs:

1. On Harvard property, including Harvard e-mail or computer systems, or
2. Off Harvard property, including conduct using social media or other non-Harvard online platforms, if
 - a. The conduct was in connection with a University program, a University-recognized program or activity, or another work-related activity such as attending a conference, conducting research in the field, providing expertise to policymakers, presenting a talk at another institution or venue, etc., and
 - b. The conduct may have the effect of creating a hostile or abusive environment for a member of the University community.

IV. Governing Principles

In the interest of providing a fair process, preserving privacy, and preventing retaliation, the following principles will be observed:

- *Impartiality.* All persons charged with responsibility for implementing these

procedures will discharge their obligations with fairness, rigor, and impartiality.

- *Fair Process.* Principles of fair process should be observed throughout the process to ensure the overall legitimacy of the system including timeliness of resolution, proper notice to parties, and the ability to respond to allegations.
- *Privacy.* All activities under these procedures will be conducted with regard for the legitimate privacy and reputational interests of all parties involved. Once a formal complaint is filed, all parties, including witnesses, will be notified of the expectation that they keep information about the case – including any documents that they may receive or review – confidential. They will also be notified that sharing such information might compromise the investigation or may be construed as retaliatory. Medical and counseling records are privileged and confidential documents that parties will not be required to disclose. The parties remain free to share their own experiences, other than information that they have learned solely through the procedures and processes under this Policy. To avoid the possibility of compromising the investigation, it is generally advisable to limit the number of people in whom the parties confide.
- *Respondents Are Presumed Not Responsible.* A respondent is presumed not to be responsible for an alleged Policy violation until a final determination regarding responsibility is made.
- *University Values.* The procedures for this policy are to be construed in concert with broader University policies, including the University-Wide Statement on Rights and Responsibilities.
- *Clarity and Visibility.* All members of the University community are expected to be aware of the University's Non-Discrimination Policy, understand what conduct is prohibited under the policy, and understand what their rights and responsibilities are under the Policy and Procedures.
- *Transparency.* Throughout the course of an investigation into a formal complaint, the Investigator will provide frequent updates to both the complainant (the person bringing the complaint) and the respondent (the person about whom the complaint has been made).
- *Timeliness.* The Central Office, in consultation with the Local Designated Resource and investigator as needed, may impose reasonable timeframes to enable timely resolution of the matter. The investigatory process typically will not exceed 90 calendar days, absent extenuating circumstances. If the timeframes identified in the procedures below must be extended for extenuating circumstances, both parties will be notified in writing of the expected extension and the reason for the extension.
- *Avoiding Conflict of Interest.* The University commits to eliminating any conflicts of interest in the process. In situations where either the complainant or the respondent names as a party or witness the University official(s) who are designated as facilitating or overseeing any stage in the Informal Resolution or Formal Complaint Processes, the Local Designated Resource, in consultation with appropriate School officials, will determine a designee to assume those responsibilities in place of the named University official(s).
- *Available Support and Remedies.* All members of the University community may seek supportive measures should they experience or witness conduct prohibited under this Policy. A party may seek supportive measures and/or resolution through

informal processes under this Policy or other university procedures, and they remain free to pursue a formal complaint under this Policy without prejudice.

V. Supportive Measures

The Local Designated Resource, in consultation with other school or University officials as needed, may implement supportive measures to protect Harvard community members and preserve access to the University's educational and work programs or activities during any informal resolution process or during a formal investigation.

VI. Procedures

A. Legal Context and Personal Advisors

These are academic and employment-related, not legal, procedures handled within the context of the University. Parties who wish may file formal complaints through processes external to the University, including government agencies, courts, and other formal legal channels.

- Any information that the investigative team deems relevant and trustworthy may be considered; legal rules of evidence do not apply.
- Parties may bring a personal advisor of their choice to any meeting or other proceeding that is part of the procedures under this Policy. Personal advisors may not speak for their advisees during interviews or meetings that are part of the investigation. In situations where the respondent is a member of a collective bargaining unit and requests a union representative, in accordance with a union member's right to request representation during investigatory interviews that may reasonably lead to discipline, the complainant may also bring a union representative to any interviews with the investigator.

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

B. Informal Resolution

When appropriate and possible, members of the Harvard community are encouraged to speak directly with one another about any concerns. Support for resolving differences may be available through Schools or Units, the Harvard University Ombuds Office, or other established processes.

Bringing a concern to the attention of the Local Designated Resource or Central Office does not automatically launch an inquiry or investigation. Supportive measures or other techniques for conflict resolution may be provided regardless of whether a mediated resolution or formal investigation is launched. Interested parties are advised to seek support, information, or advice from the Local Designated Resource or the Central Office. They can expect to learn about resources available at the University and elsewhere that provide counseling and support. They can also request information about the steps involved in pursuing informal resolution or filing a formal complaint as well as supportive measures, as appropriate.

Parties who wish to remain anonymous are encouraged to discuss their concerns with the Harvard University Ombuds Office. They may alternatively report concerns through the University's Anonymous Reporting Hotline, 877-694-2275, reportinghotline.harvard.edu. When a report or complaint is anonymous, records will be kept but it may limit the ability of the University to fully address it.

C. Formal Complaint Procedures

1. *Filing of a Formal Complaint.* The complainant is encouraged to file a complaint as soon as possible after the offending conduct allegedly occurred. Complainants filing a formal complaint cannot remain anonymous or prevent their identity from being disclosed to the respondent. A complainant may file a formal complaint with the Local Designated Resource or with the Central Office. The complaint must be in writing and should be written in the complainant's own words. The complaint should identify the parties involved; describe the allegedly discriminatory behavior, including when and where it occurred; and identify by name or description any witnesses and/or evidence (e.g. correspondence, records, etc.). Within 3 business days of receiving a complaint, the relevant Local Designated Resource and the Central Office will share the complaint with each other and engage in a preliminary consultation about the claim asserted. If a complaint involves a complainant and respondent from different schools within the University, the school of the respondent will be the Local Designated Resource. If multiple complaints are filed at or near the same time against the same respondent, the Local Designated Resource, after consultation with the Central Office, may pool the complaints into a single investigation but is not required to do so.
2. *Initial Review.* The Local Designated Resource conducts an initial review to determine if the formal complaint warrants an investigation. The initial review will be concluded within 14 calendar days after the date the formal complaint was received. The decision (either to dismiss or proceed with an investigation) will be communicated in writing to the complainant with a copy to the Central Office.
 - a. Initial review -- Dismissal of Complaint. The complaint may be dismissed without further process or review if the complaint on its face is frivolous, insubstantial, outside the scope of this policy or its accompanying procedures, or otherwise unable to state a claim for relief under this Policy. A complaint may also be dismissed without further investigation if the issues it raises have been considered by the University in another forum or through another mechanism or if an investigation would not be feasible due to the passage of time since the alleged conduct occurred.
 - b. Initial review -- Acceptance of Complaint. When it is determined that the complaint should not be dismissed, an investigation will be opened as described below.
3. *Assignment of an Investigator.* The Local Designated Resource shall assign a trained investigator, whether an internal resource or external resource, from a list supplied by the Central Office to investigate the allegations.
4. *Written Notice to the Parties.* Within 7 calendar days of the determination at initial review that the complaint should be investigated, the Central Office will send written notice to the complainant and respondent that will include the identities of the parties, the name of the investigator, the nature of the allegations, and a summary of the process that will be followed.

5. *Objection to the Choice of Investigator.* Either the complainant or the respondent may object to the choice of investigator for good cause, such as evidence of conflict of interest or bias. Such objection must be in writing, must fully state the reasons for the objection, and must be received by the Local Designated Resource within 7 calendar days after the notice to the complainant and respondent is sent. The Local Designated Resource will determine whether to remove and replace the investigator and will notify the parties and the Central Office of its decision.

6. *Written Statement from Respondent.* The respondent will have 7 calendar days from written notification of the complaint to submit a written statement to the investigator in response to the allegations but is not required to do so. Attached to the statement should be a list of all sources of information (e.g., witnesses, correspondence, records) that the respondent believes may be relevant to the investigation.

7. *Investigation.* The investigator will gather information from the complainant and the respondent, and others, if appropriate. If, in the course of the investigation, the investigator decides to pursue allegations that have come to light but were not included in the written notice to the parties, the investigator will provide notice of the additional allegations to the respondent. Both parties will have a reasonable and equal opportunity to submit the names of witnesses and any relevant information for review; and to review the information upon which the investigator may rely in making their findings and recommendations. Both parties will have 7 calendar days to submit additional information in response.

8. *Investigative Report.* At the conclusion of the investigation, the investigator will make preliminary findings of fact, applying a preponderance of the evidence standard, and make a recommended finding as to whether there was a violation of this policy. The investigator will provide the complainant and respondent with a written draft of the preliminary findings of fact and analysis and will give both parties 7 calendar days to submit written responses to the draft. The investigator will consider whether revisions to the preliminary report are required based on any written responses and will send the final report to the Central Office, the Local Designated Resource; the complainant; and the respondent. The investigator generally will issue the preliminary report within 90 calendar days of the complaint.

9. *Determination.* Within 7 calendar days of receipt of the final investigative report, the Local Designated Resource will appoint a panel of, at minimum, three neutral members (the “Determination Panel”) to review the investigative report and determine, using a preponderance of the evidence standard, whether the policy was violated. The Determination Panel may include any combination of staff or faculty, but it must include at least one member who is not employed by the local school. Local Schools will determine when and how a Determination Panel may seek additional information, either by questions to the investigator or questions to the parties.

The Determination Panel will issue a written determination within 21 days of the Panel’s receipt of the final investigative report, absent extenuating circumstances requiring an extension. The written determination will be provided to both parties, the Local Designated

Resource, the Central Office, and the Appropriate Official. If a policy violation is found, the decision will include recommended corrective measures (e.g., training, coaching, or other measures, as appropriate) to be taken by the unit(s) to eliminate any discrimination, prevent its recurrence, and address its effects. The imposition of any sanctions or remedial measures is addressed separately from the written decision in accordance with local policy.

10. *Appeal.* If they wish to do so, within 7 calendar days of the issuance of the written determination, the complainant and respondent may submit a signed, written appeal of no more than 2,500 words to the Local Designated Resource or Central Office on one or more of the following grounds:

- a. A procedural error occurred that affected the outcome of the decision;
- b. The appellant has new evidence that was not reasonably available at the time the dismissal or determination was made that may change the outcome of the decision;
- c. A Determination Panel member(s) or the Local Designated Resource involved in the dismissal or determination of the claim had a conflict of interest or bias for or against the individual complainant or respondent such that a reasonable person would conclude it influenced the outcome of the matter; or
- d. On the record as a whole, no reasonable Determination Panel could have reached the same determination.

Disagreement with the findings or determination is not, in and of itself, a ground for appeal.

The Central Office and Local Designated Resource will share the appeal with each other, and the Central Office will send copies of the request for appeal to the Appropriate Official or their designee and the other party. The Central Office, in consultation with the Local Designated Resource, will review the request for appeal for timeliness and compliance with the procedures set forth in this policy. Within 7 calendar days of receipt of the written appeal, the Central Office will inform the parties and the Appropriate Official or their designee whether the appeal is timely and compliant with this policy.

If the appeal is deemed timely and in compliance with the procedures set forth in this policy, the non-appealing party may submit a response to the appeal within 7 calendar days of receiving the appeal, and the response must be no more than 2,500 words. The response will be shared with the appealing party. The appealing party may submit a reply of no more than 1,000 words within 2 business days. The non-appealing party will have access to the other party's reply, but no further responses will be permitted. All appeals will be based solely on the written record.

The Central Office, in consultation with the Local Designated Resource, will appoint an Appeals Panel of, at minimum, three neutral members from the Central Office's designated list of trained Appeals Panel Members. The Appeals Panel may include any combination of staff or faculty, but it must include at least one member who is not employed by the local school and it may not include any individual who has served a role in the alleged conduct, the investigation, or the determination. The Central Office will forward the written appeal and any response or reply to the Appeals Panel. The Appeals Panel will consider the issues raised

in the request for appeal and make a determination, which may include adopting or reversing the decision below, directing that the investigation be re-opened, or any other appropriate action.

At the conclusion of this review, the Appeals Panel will prepare a statement of outcome regarding the appeal request, to be shared with the parties, the Local Designated Resource, the Central Office, and the Appropriate Official or their designee, seeking to complete any appeal generally within 30 calendar days after receipt of the request for appeal.

D. Sanctions and Remedial Measures

Once any appeals are resolved, the Appropriate Official or designee will determine actions to take based on the Determination Panel's findings and pursuant to local disciplinary policies. Sanctions or remedial measures for findings relevant to this policy shall take into account the severity and impact of the conduct, the Respondent's previous disciplinary history, and the goals of this Policy. While sanctions and remedial measures will vary, examples include but are not limited to counseling, warning, reprimand, suspension, probation, monitoring, community service, reduction in access to resources, reduction in oversight duties, reduction in salary, mandatory coaching and training, paid or unpaid leave, dismissal, expulsion, or termination, including possible recommendation of tenure termination. The Appropriate Official shall ensure that all sanctions and corrective or remedial measures are implemented.

Any issuance of sanctions and/or remedial measures will be communicated to the respondent in writing. Decisions about sanctions and remedial measures are final and cannot be appealed.

(Draft) Anti-Bullying Policy

I. Statement of Principles

Harvard University is committed to cultivating a community that is open, welcoming, and inclusive, and that supports all community members in pursuit of the University's mission of learning, teaching, research, and discovery. As outlined in the University-Wide Statement on Rights and Responsibilities (1970), the University is "characterized by free expression, free inquiry, intellectual honesty, respect for the dignity of others, and openness to constructive change." This Anti-Bullying Policy ("the Policy") seeks to promote an educational and work environment where academic freedom and freedom of expression are upheld for all members of the Harvard community, and where all community members are treated with respect and dignity. Bullying, hostile and abusive behavior, and power-based harassment directly threaten the ability of community members to engage in the free exchange of ideas and pursue their educational and professional goals. Therefore, bullying, hostile and abusive behavior, and power-based harassment, as defined in this Policy, are prohibited at Harvard.

This Policy aims to foster a University community built on mutual respect and trust while also not interfering with academic freedom, reasoned dissent, or legitimate pedagogical or employment-related feedback. The Policy is intended to educate community members about bullying and to provide informal and formal mechanisms for addressing and rectifying behaviors that breach such mutual respect and trust. No one at Harvard should face bullying, and all community members should feel confident in reporting any incidents without fear of retaliation. The University strongly encourages anyone who has been bullied, or anyone who observes such behavior, to make a report through the channels outlined in the Policy. The University will respond promptly to reports of bullying and will take appropriate action to prevent and respond to behavior that violates the Policy.

This Policy applies to all members of the Harvard community, including faculty, researchers, staff, and students.¹ The Policy is limited to behavior not already covered by other University policies, including those against sexual and gender-based harassment and other sexual misconduct, discrimination, or research misconduct.

Retaliation is prohibited against an individual for raising a good-faith allegation, for cooperating in an investigation of such a complaint, for opposing prohibited conduct, for denying or defending oneself against an allegation, or for offering or providing support to an individual who makes or may make a good-faith report of misconduct. Submitting a complaint in bad faith or providing materially false or misleading information in an investigation is also prohibited.

II. Definitions

¹ At Harvard, administrators either fall into the faculty or staff category.

A. Definition of Bullying

Bullying, used as a shorthand for hostile and abusive behavior or power-based harassment, is defined here as harmful interpersonal aggression by words or actions that humiliate, degrade, demean, intimidate, and/or threaten² an individual or individuals. For a violation of the Policy to occur, such aggression must be sufficiently pervasive, persistent, and/or severe that a reasonable person would find that it creates an educational, work, or living environment in which a person is unreasonably excluded from participation in or denied the benefits of the University's educational or work programs or activities. Unless sufficiently pervasive, persistent and/or severe, a single act typically would not constitute bullying.

The Policy is intended to ensure that all community members, regardless of rank or status, may pursue their work and/or learning. Power-based harassment is of particular concern because of the ways in which it can create a broader culture of abusive behavior. While bullying may in many cases involve an imbalance of power, this Policy recognizes that bullying may also occur between community members in the same role, or of the same rank or status.

Bullying may include, but is not limited to, the following behaviors:

- Abusive expression directed at an individual or individuals, such as derogatory remarks, epithets, or ad hominem attacks that are outside the range of commonly accepted expressions of disagreement, disapproval, or critique in an academic community and professional setting that respects free expression. The Policy encompasses abusive expression or ad hominem attacks that are verbal or nonverbal, spoken or written, recorded, visual, or digital, including content posted to online platforms, academic tools, or social media sites. Examples include:
 - o Performance feedback delivered by yelling, screaming, making threats³ and/or insults.
 - o Deliberate and repeated humiliation. This could include actions such as deliberate and repeated shaming of peers on online platforms (e.g., Slack) in response to ideas, beliefs, or opinions shared in the classroom.
 - o Malicious comments about a person's appearance, lifestyle, family, or culture.
- Unwarranted physical contact or intimidating gestures directed at an individual or individuals. Examples include:
 - o A physical, verbal, and/or written act toward another person, which causes them reasonably to fear for their safety and/or the safety of others.
 - o Invading personal space after being asked to move or step away.
- Conspicuous and unwarranted exclusion or isolation of an individual or individuals, with the effect of harming their reputation in the workplace and/or learning environment and hindering their learning or work;

² Informing individuals of possible negative consequences will not on its own be considered a threat that violates this policy, unless a reasonable person would find the manner in which the individual is informed of the possible consequence or the consequence itself to be inappropriate or solely intended to intimidate.

³ See footnote 2.

- Sabotage or threatened sabotage of the studies, work, or career advancement of an individual or individuals. Examples include:
 - o Interfering or threatening to interfere with a person's visa status.
 - o Spreading false or misleading information or malicious rumors.
 - o Sharing confidential information about another person without a legitimate pedagogical or employment-related purpose.
 - o Interfering with a person's personal property or work equipment.
 - o Damaging or destroying a person's work.
- Abuse of authority, such as using inappropriate threats or retaliation in the exercise of authority, supervision, or guidance, or impeding or attempting to impede another person from exercising rights under any of Harvard's policies or procedures.

The Policy is not intended to discourage or interfere with ordinary managerial, mentoring, or educational relationships, including the solicitation or delivery of constructive or critical feedback. Bullying must therefore be distinguished from behavior which may be unpleasant or unsettling but is nevertheless appropriate for carrying out certain pedagogical or employment-related responsibilities.

Examples of conduct that would not ordinarily violate this Policy include the following:

- Administrative actions such as performance reviews (including negative performance reviews), assigning work to employees, or other managerial decisions.
- Critical feedback on the academic work of students, including advising a student of unsatisfactory academic work and the potential for course failure or dismissal from the program.
- Critical feedback on the inappropriate behavior of individuals, including advising of the consequences of inappropriate conduct, poor performance, or failure to follow policy.
- Differences of opinion, interpersonal conflicts, and occasional disagreements, which are often part of academic and working life and do not necessarily constitute bullying.
- Classroom discussion of academic research or reasoned opinion on controversial issues.
- Pedagogical decisions concerning topics to be considered and methods to be used to draw students into discussion (e.g., the cold-calling Socratic Method, which has a clear pedagogical use but which some students may consider unpleasant or unsettling).

This Policy should also be construed within the context of the University's enduring commitment to academic freedom and free inquiry, and the conception of the University as a place that must encourage reasoned dissent and the free exchange of ideas, beliefs, and opinions, however unpopular. This Policy is not intended to constrain the freedom of Harvard community members to engage in academic disagreements or to speak out about troubling matters, criticize the administration or University policies, or take part in political protest.

B. Other Definitions

Appropriate Official: Each school and Central Administration will define and publish with this policy their Appropriate Officials, who will be the final authority to issue any sanctions, based upon the respondent's role at the university. An example is shown below.

Respondent's Role	Appropriate Official
Student	School Dean or Local Student Disciplinary Body
Staff/Researcher	Human Resources Officer and/or Unit Vice President
Faculty	School Dean

Central Office: The central office that serves the entire university and will work with Local Designated Resources when formal and informal complaints are received; staff or provide referrals to neutral, trained investigators who will manage investigations of formal complaints; provide resources and information to community members with questions about policy, process, or supportive measures; and keep records of reports, complaints, findings and, if any, sanctions consistent with university policies related to recordkeeping.

Local Designated Resource: Each School and Central Administration will designate individual(s) to serve as the resource for receiving reports and complaints, directing community members to resources, and providing information on supportive measures. The Local Designated Resource will coordinate with the Central Office in response to complaints, training, and educational initiatives relevant to the policy.

III. Jurisdiction

This Policy and its accompanying procedures apply to alleged acts of bullying, including online bullying, that are committed by any member of the Harvard community, including faculty, researchers, postdoctoral fellows, staff, and students, but does not apply to alleged misconduct that may fall within the scope of other University policies. Alleged misconduct that is dealt with under other University policies (e.g. those regarding sexual and gender-based harassment and other sexual misconduct, discrimination, or research misconduct) will not be covered by this policy unless a determination is made by those responsible for those other policies that the behavior fits more appropriately in this policy. Sexual and gender-based harassment are covered by the University's Interim Title IX Sexual Harassment Policy, Interim Other Sexual Misconduct Policy, and Sexual and Gender-Based Harassment Policy. Claims of discrimination are handled under the University Non-Discrimination Policy, with the exception of claims of discrimination on the basis of disability or failure to accommodate a disability, which are addressed through the University Disability Resource Center Grievance Policy. This Policy and its accompanying procedures apply when the alleged conduct occurs:

1. On Harvard property, including Harvard e-mail or computer systems, or
2. Off Harvard property, including conduct using social media or other non-Harvard online platforms, if
 - a. The conduct was in connection with a University program, a University-recognized program or activity, or another work-related activity such as attending a conference, conducting research in the field, providing expertise to policymakers,

presenting a talk at another institution or venue, etc., and

b. The conduct may have the effect of creating a hostile or abusive environment for a member of the University community.

IV. Governing Principles

In the interest of providing a fair process, preserving privacy, and preventing retaliation, the following principles will be observed:

- *Impartiality.* All persons charged with responsibility for implementing these procedures will discharge their obligations with fairness, rigor, and impartiality.
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- Any information that the investigative team deems relevant and trustworthy may be considered; legal rules of evidence do not apply.
- Parties may bring a personal advisor of their choice to any meeting or other proceeding that is part of the procedures under this Policy. Personal advisors may not speak for their advisees during interviews or meetings that are part of the investigation. In situations where the respondent is a member of a collective bargaining unit and requests a union representative, in accordance with a union member's right to request representation during investigatory interviews that may reasonably lead to discipline, the complainant may also bring a union representative to any interviews with the investigator.

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

B. Informal Resolution

When appropriate and possible, members of the Harvard community are encouraged to speak

directly with one another about any concerns. Support for resolving differences may be available through Schools or Units, the Harvard University Ombuds Office, or other established processes.

Bringing a concern to the attention of the Local Designated Resource or Central Office does not automatically launch an inquiry or investigation. Supportive measures or other techniques for conflict resolution may be provided regardless of whether a mediated resolution or formal investigation is launched. Interested parties are advised to seek support, information, or advice from the Local Designated Resource or the Central Office. They can expect to learn about resources available at the University and elsewhere that provide counseling and support. They can also request information about the steps involved in pursuing informal resolution or filing a formal complaint, as well as supportive measures, as appropriate.

Parties who wish to remain anonymous are encouraged to discuss their concerns with the Harvard University Ombuds Office. They may alternatively report concerns through the University's Anonymous Reporting Hotline, 877-694-2275, reportinghotline.harvard.edu. When a report or complaint is anonymous, records will be kept but it may limit the ability of the University to fully address it.

C. Formal Complaint Procedures

1. *Filing of a Formal Complaint:* The complainant is encouraged to file a complaint as soon as possible after the offending conduct allegedly occurred. Complainants filing a formal complaint cannot remain anonymous or prevent their identity from being disclosed to the respondent. A complainant may file a formal complaint with the Local Designated Resource or with the Central Office. The complaint must be in writing and should be written in the complainant's own words. The complaint should identify the parties involved⁴; describe the allegedly bullying or abusive behavior, including when and where it occurred; and identify by name or description any witnesses and/or evidence (e.g. correspondence, records, etc.). Within 3 business days of receiving a complaint, the relevant Local Designated Resource and the Central Office will share the complaint with each other and engage in a preliminary consultation about the claim asserted. If a complaint involves a complainant and respondent from different schools within the University, the school of the respondent will be the Local Designated Resource. If multiple complaints are filed at or near the same time against the same respondent, the Local Designated Resource, after consultation with the Central Office, may pool the complaints into a single investigation but is not required to do so.

2. *Initial Review.* The Local Designated Resource conducts an initial review to determine if the formal complaint warrants an investigation. The initial review will be concluded within 14 calendar days after the date the formal complaint was received. The decision (either to dismiss or proceed with an investigation) will be communicated in writing to the complainant with a copy to the Central Office.

- a. Initial review -- Dismissal of Complaint. The complaint may be dismissed without further process or review if the complaint on its face is frivolous, insubstantial, outside the scope

⁴ While the formal complaint cannot proceed without an identified respondent, other avenues may be pursued to try to identify anonymous respondents.

of this policy or its accompanying procedures, or otherwise unable to state a claim for relief under this Policy. A complaint may also be dismissed without further investigation if the issues it raises have been considered by the University in another forum or through another mechanism or if an investigation would not be feasible due to the passage of time since the alleged conduct occurred.

- b. Initial review -- Acceptance of Complaint. When it is determined that the complaint should not be dismissed, an investigation will be opened as described below.

3. *Assignment of an Investigator.* The Local Designated Resource shall assign a trained investigator, whether an internal resource or external resource, from a list supplied by the Central Office, to investigate the allegations.

4. *Written Notice to the Parties.* Within 7 calendar days of the determination at initial review that the complaint should be investigated, the Central Office will send written notice to the complainant and respondent that will include the identities of the parties, the name of the investigator, the nature of the allegations, and a summary of the process that will be followed.

5. *Objection to the Choice of Investigator.* Either the complainant or the respondent may object to the choice of investigator for good cause, such as evidence of conflict of interest or bias. Such objection must be in writing, must fully state the reasons for the objection, and must be received by the Local Designated Resource within 7 calendar days after the notice to the complainant and respondent is sent. The Local Designated Resource will determine whether to remove and replace the investigator and will notify the parties and the Central Office of its decision.

6. *Written Statement from Respondent.* The respondent will have 7 calendar days from written notification of the complaint to submit a written statement to the investigator in response to the allegations but is not required to do so. Attached to the statement should be a list of all sources of information (e.g., witnesses, correspondence, records) that the respondent believes may be relevant to the investigation.

7. *Investigation.* The investigator will gather information from the complainant and the respondent, and others, if appropriate. If, in the course of the investigation, the investigator decides to pursue allegations that have come to light but were not included in the written notice to the parties, the investigator will provide notice of the additional allegations to the respondent. Both parties will have a reasonable and equal opportunity to submit the names of witnesses and any relevant information for review; and to review the information upon which the investigator may rely in making their findings and recommendations. Both parties will have 7 calendar days to submit additional information in response.

8. *Investigative Report.* At the conclusion of the investigation, the investigator will make preliminary findings of fact, applying a preponderance of the evidence standard, and make a recommended finding as to whether there was a violation of this policy. The investigator will provide the complainant and respondent with a written draft of the preliminary findings of fact and analysis and will give both parties 7 calendar days to submit written responses to the draft.

The investigator will consider whether revisions to the preliminary report are required based on any written responses and will send the final report to the Central Office, the Local Designated Resource; the complainant; and the respondent. The investigator generally will issue the preliminary report within 90 calendar days of the complaint.

9. *Determination.* Within 7 calendar days of receipt of the final investigative report, the Local Designated Resource will appoint a panel of, at minimum, three neutral members (the “Determination Panel”) to review the investigative report and determine, using a preponderance of the evidence standard, whether the policy was violated. The Determination Panel may include any combination of staff or faculty, but it must include at least one member who is not employed by the local school. Local Schools will determine when and how a Determination Panel may seek additional information, either by questions to the investigator or questions to the parties.

The Determination Panel will issue a written determination within 21 days of the Panel’s receipt of the final investigative report, absent extenuating circumstances requiring an extension. The written determination will be provided to both parties, the Local Designated Resource, the Central Office, and the Appropriate Official. If a policy violation is found, the decision will include recommended corrective measures (e.g., training, coaching, or other measures, as appropriate) to be taken by the unit(s) to eliminate the conduct, prevent its recurrence, and address its effects. The imposition of any sanctions or remedial measures is addressed separately from the written decision in accordance with local policy.

10. *Appeal.* If they wish to do so, within 7 calendar days of the issuance of the written determination, the complainant and respondent may submit a signed, written appeal of no more than 2,500 words to the Central Office on one or more of the following grounds:

- a. A procedural error occurred that affected the outcome of the decision;
- b. The appellant has new evidence that was not reasonably available at the time the dismissal or determination was made that may change the outcome of the decision;
- c. A Determination Panel member(s) or the Local Designated Resource involved in the dismissal or determination of the claim had a conflict of interest or bias for or against the individual complainant or respondent such that a reasonable person would conclude it influenced the outcome of the matter; or
- d. On the record as a whole, no reasonable Determination Panel could have reached the same determination.

Disagreement with the findings or determination is not, in and of itself, a ground for appeal.

The Central Office and Local Designated Resource will share the appeal with each other, and the Central Office will send copies of the request for appeal to the Appropriate Official or their designee and the other party. The Central Office, in consultation with the Local Designated Resource, will review the request for appeal for timeliness and compliance with

the procedures set forth in this policy. Within 7 calendar days of receipt of the written appeal, the Central Office will inform the parties and the Appropriate Official or their designee whether the appeal is timely and compliant with this policy.

If the appeal is deemed timely and in compliance with the procedures set forth in this policy, the non-appealing party may submit a response to the appeal within 7 calendar days of receiving the appeal, and the response must be no more than 2,500 words. The response will be shared with the appealing party. The appealing party may submit a reply of no more than 1,000 words within 2 business days. The non-appealing party will have access to the other party's reply, but no further responses will be permitted. All appeals will be based solely on the written record.

The Central Office, in consultation with the Local Designated Resource, will appoint an Appeals Panel of, at minimum, three neutral members from the Central Office's designated list of trained Appeals Panel Members. The Appeals Panel may include any combination of staff or faculty, but it must include at least one member who is not employed by the local school and it may not include any individual who has served a role in the alleged conduct, the investigation, or the determination. The Central Office will forward the written appeal and any response or reply to the Appeals Panel. The Appeals Panel will consider the issues raised in the request for appeal and make a determination, which may include adopting or reversing the decision below, directing that the investigation be re-opened, or any other appropriate action.

At the conclusion of this review, the Appeals Panel will prepare a statement of outcome regarding the appeal request, to be shared with the parties, the Local Designated Resource, the Central Office, and the Appropriate Official or their designee, seeking to complete any appeal generally within 30 calendar days after receipt of the request for appeal.

D. Sanctions and Remedial Measures

Once any appeals are resolved, the Appropriate Official or designee will determine actions to take based on the Determination Panel's findings and pursuant to local disciplinary policies. Sanctions or remedial measures for findings relevant to this policy shall take into account the severity and impact of the conduct, the Respondent's previous disciplinary history, and the goals of this Policy. While sanctions and remedial measures will vary, examples include but are not limited to counseling, warning, reprimand, suspension, probation, monitoring, community service, reduction in access to resources, reduction in oversight duties, reduction in salary, mandatory coaching and training, paid or unpaid leave, dismissal, expulsion, or termination, including possible recommendation of tenure termination. The Appropriate Official shall ensure that all sanctions and corrective or remedial measures are implemented.

Any issuance of sanctions and/or remedial measures will be communicated to the respondent in writing. Decisions about sanctions and remedial measures are final and cannot be appealed.