

BROWN

Discrimination/Harassment Policy and
Grievance Procedures

September 2009

I. POLICY

Brown University's mission is "to serve the community, the nation, and the world by discovering, communicating, and preserving knowledge and understanding in a spirit of free inquiry, and by educating and preparing students to discharge the offices of life with usefulness and reputation." It is incumbent upon the University to foster an atmosphere of trust and respect in order to meet the goals set forth in this mission statement. Discrimination and unlawful harassment are inimical to fostering such an atmosphere and cannot be tolerated in a community aspiring to achieve an open learning environment.

Brown University is committed to creating and maintaining an educational, working, and living environment that is free of any form of unlawful discrimination and harassment. Unlawful discrimination is defined by federal and/or state statutes to include unfavorable or unfair treatment of a person or class of persons because of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, and gender expression.

Unlawful harassment is harassment that refers to or is based upon the protected status of the person or persons being harassed. Unlawful harassment in the work and educational environment is created if conduct of another person is sufficiently serious that it interferes with an employee's ability to perform their job or denies or limits a student's ability to participate in or benefit from the University's programs. Factors to be considered in determining whether and the extent to which a hostile work or learning environment has been created include, but are not limited to, the frequency, severity and pervasiveness of the conduct, whether it is physically threatening, the degree to which the conduct interfered with an employee's work performance or a student's academic performance and/or full enjoyment of the academic/campus programs and services, the relationship between the alleged harasser and the subject or subjects of the harassment, the welcomeness or unwelcomeness of the conduct, etc. The severity and pervasiveness of the conduct is considered from both subjective and objective perspectives (the conduct is viewed as hostile and abusive by both a "reasonable person" and the person who is subjected to the conduct). See Appendix A and Appendix B for relevant University policies and federal and state statutes.

The University has, therefore, created guidelines and procedures for the resolution of grievances/complaints alleging violation of its discrimination and harassment policy and the Standards of Student Conduct. While these procedures provide sanctions for behaviors that violate state and federal law and University conduct standards, more importantly, they also describe ways of resolving informally the various conflicts and disagreements that inevitably arise in a community distinguished by its diversity. These guidelines and procedures are available to anyone who, at the time of an alleged violation, is either employed or enrolled at Brown University. They are intended to provide a fair, prompt, and reliable mechanism for determining whether Brown University's discrimination and harassment policy has been violated and, if so, to provide appropriate resolution. No university faculty member, staff member, or student (undergraduate, graduate or medical) is exempt from the jurisdiction of this policy as it applies to their status. The availability of these procedures to all individuals does not limit the responsibility of the University to insure that the protections of this policy prevail throughout the University community and these guidelines and procedures are not intended to impair or limit the

right of any individual to seek a remedy available under state or federal law (See Appendix C for a listing of federal and state offices).

These procedures are not intended to inhibit or restrict free expression or exchange of ideas. The faculty and Corporation, in 1966, adopted the following statement of principles regarding academic freedom and freedom of expression:

“Academic freedom is essential to the function of education and the pursuit of scholarship in universities. Therefore, Brown University, mindful of its historic commitment to scholarship and to the free exchange of ideas, affirms that faculty and students alike shall enjoy full freedom in their teaching, learning, and research. Brown University also affirms that faculty and students shall have freedom of religious belief, of speech, of press, of association and assembly, of political activity inside and outside the University, the right to petition authorities, public and university, to invite speakers of their choice to the campus and that students and faculty as such should not be required to take any oath not required of other citizens. The time, place and manner of exercising these rights on campus shall be subject to reasonable regulation only to prevent interference with the normal functions of the University.”

Adhering to this tradition, procedures contained herein are designed to address unlawful discriminatory or harassing behavior. In an academic community the response to ideas believed to be distasteful or offensive should be other ideas and relevant evidence rather than administrative sanctions. Speech or expression protected by the University’s statement on academic freedom and freedom of expression, as well as speech protected by state and federal laws are not subject to sanction under these procedures.

*. From the Foreword of the Bulletin of the University for the Years 2001-2003.

II. Procedures

A. Informal Resolution of Disagreements

In a diverse community, disagreements and conflicts of various degrees of seriousness are inevitable. Many issues are best resolved informally, by direct communication between the individuals involved, or with the help of mediation by a third party. Often, the most effective avenue for informal resolution of complaints is direct conversation with the person or persons alleged to have caused the offense; reasoned discussion of the issue will often bring about a resolution and new understanding.

Anyone may seek advice, information or counseling on matters related to discrimination and harassment without having to lodge an informal or formal grievance. Persons who feel they have been discriminated against or harassed, and/or are uncertain as to whether what they experienced is discrimination or harassment, and/or desire information as to their options in dealing with harassment and discrimination are encouraged to talk with any one of the resource persons as described below.

If alleged harasser is a:
Student

Faculty Member

Staff Member

File complaint with:
Senior Associate Dean of Student Life, or
Associate Provost & Director of
Institutional Diversity
Provost or Associate Provost & Director of
Institutional Diversity
Director of Staff Diversity or Associate
Provost and Director of Institutional
Diversity

These persons are trained to assist the individual in assessing the incident and/or to explain the options and resources available. Questions are encouraged; merely discussing an incident in this way does not commit an individual to making a complaint. These individuals can also assist a complainant in accessing a University official who may be able to mediate the conflict by discussing the allegation informally with relevant parties in an attempt to end the alleged discrimination or harassment and resolve the issue. Alternatively, the resource persons listed above can help the complainant access one of the informal mediation programs available at the university.

The complainant may request to have her or his name kept confidential at this informal stage. If there is a resolution acceptable to both parties, the matter will not proceed further. Records will be kept of materials generated by such informal mediation along with an informal written agreement which will be reviewed and signed by both parties and kept in the appropriate office (Office of Student Life for students; the Office of the Provost for faculty and the Office of Equal Employment Opportunity and Affirmative Action for staff). Failure to respond to a complaint, or refusal to participate in informal mediation shall not be introduced as a consideration during any formal proceedings that may later arise.

B. Formal Complaint Procedures

An individual who chooses to pursue formal resolution of a complaint alleging violations of the University's Discrimination and Harassment Policy must begin by filing a formal complaint with the appropriate officer of the University.

A formal complaint may be filed immediately after an alleged act of discrimination or harassment has taken place or after any efforts that may have been undertaken to reach an informal settlement (as per Section II A. Informal Resolution Procedures) has proven unsuccessful.

The filing of a written complaint is required for the matter to be formally investigated. A formal complaint must be filed on a standard form obtained from the office where the complaint is to be filed and must present clearly and concisely the complainant's description of the incident(s), including names of all participants and known observers of the offensive conduct (See Appendix D). The complainant may also indicate any remedy desired. The complaint must be signed by the complainant.

The procedure and person handling formal grievances will depend on the University community status of the alleged harasser. "University community status" refers to whether a person is a student, faculty member, or staff member. Accordingly, formal grievances are filed as follows: (Please note that for purposes of this discussion "student" is defined to include all students whether undergraduate, graduate or medical.)

If alleged harasser is a:	File complaint with:
Student	Senior Associate Dean of Student Life (x3-3145)
Faculty Member	Provost (x3-2216)
Staff Member	Director of Staff Diversity (x3-1787) or Associate Provost and Director of Institutional Diversity (x3-2216)

Specific policies and procedures followed in the handling of complaints filed against students, faculty or staff members are from the Office of Student Life for students, the Office of the Provost for faculty and the Department of Human Resources for Staff. Members of the community should refer to those policies and procedures for full and complete information regarding how individual complaints will be investigated and handled. The description of the processes and procedures in this document are intended to be general in nature and do not substitute for or replace the established policies and procedures maintained in each of the offices mentioned above.

Once a complaint is filed, the appropriate official will determine whether the complaint merits formal review. A formal complaint may be dismissed at this stage if the complaint is deemed groundless for such reasons as the following: because it is not filed in a timely fashion; because the alleged behavior does not constitute a violation of the University's discrimination and

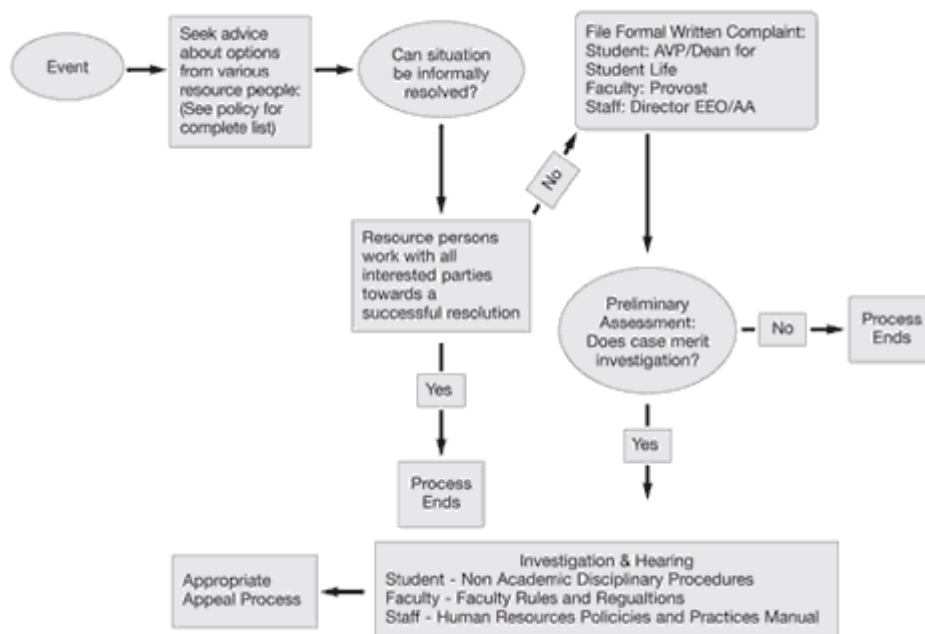
harassment policy; or because the speech or expression complained of is protected and/or does not violate the law.

In instances where free speech and freedom of expression in the academic context may be of issue, the investigator will seek agreement from the Dean of the Faculty that the speech in question is not protected. Similarly, in instances where free speech and freedom of expression in the student-life context may be of issue, the investigator will seek agreement from the Dean for Campus Life that the speech involved is not protected. If these parties agree that the speech or expression in question is not protected, the complaint is returned for further action under these procedures. If these parties conclude that the speech or expression in question is protected under the University Statement of Academic Freedom, Standards of Student Conduct and/or other federal and state laws, the complaint will be dismissed. The complainant will be informed of the reasons for the decision and where appropriate suggest other ways of addressing the conflict. In the event that there is disagreement about whether the complaint involves protected speech or expression, the question will be referred to the Provost, whose determination on the question will be final.

A decision to proceed does not preclude a respondent's raising the issue of academic freedom or freedom of expression at a later stage in the proceedings.

In cases involving a student as the respondent, the process outlined in the Student Non-Academic Disciplinary Procedures will be followed. The process outlined in the Faculty Rules and Regulations will be employed in cases involving a faculty member, regular, contract; adjunct or other instructional personnel as the respondent. In cases where a staff member is the respondent procedures outlined in the Human Resources Policies and Procedures Manual will be followed. All of the procedures provide for investigations, hearings, sanctioning and appeals

Process Summary



III. General Considerations

Complaints of discrimination or harassment filed under the procedures established by the University will be investigated and resolved as promptly as possible.

(a) Deadlines

A complainant will have 30 days (60 days for students) following the alleged discrimination or harassment to file a complaint unless she or he has good reason (as determined by the formal investigation official) for having this period extended. Prompt reporting is strongly urged; the longer the delay between the incident(s) and the report, the more difficult it is to investigate and evaluate a complaint.

In special circumstances, at the request of a complainant and at the discretion of the formal investigation official, the processing of a formal complaint that has been filed within the time allowed may be deferred until a specified date (e.g., after completion of a course or other academic exercise). Usually such deferral will be for no more than one semester.

(b) Failure to Cooperate

Failure to cooperate in the investigation of a formal complaint will be considered a breach of responsibility. If a respondent fails to cooperate, her or his department head, immediate supervisor, or dean will be notified of the fact by the formal investigation official. Furthermore a respondent's silence or lack of cooperation will not prevent a complaint from going forward. Failure to cooperate in a formal review proceeding may result in the investigation proceeding solely on the basis of the available evidence.

(c) Confidentiality

Situations involving alleged discrimination or harassment demand special attention to issues of confidentiality. Confidentiality will be maintained in informal and formal proceedings to the extent that it is legally and practically possible to do so. All documents should be marked confidential and all testimony and discussion should be considered confidential as well.

(d) Protection Against Retaliation

No individual who seeks information about the University's discrimination and harassment policy or who files a complaint against another member of the University community in good faith shall be subject to restraints, interference, coercion, or reprisal. University resource persons will advise the complainant of her or his rights in this matter, and, where warranted, will investigate a complaint of alleged retaliation in the same manner as is described herein for other discrimination complaints.

(e) Deliberate Fabrication of Evidence

If, at the conclusion of an investigation, it is determined that a complainant, respondent, or witness knowingly gave false or misleading information, it may be recommended that the individual be subjected to disciplinary action which may include, but is not limited to, written warning, demotion, transfer, suspension, dismissal, expulsion, or termination.

(f) Record Keeping

The formal investigation official will maintain records of all formal complaints received. Such records will contain the complainant's and respondent's names, the outcome of the proceedings, and any sanctions imposed. At the end of every academic year, the Office of Institutional Diversity will prepare for the President an annual report of the data concerning formal discrimination and harassment complaints. As far as possible, the report will contain no information that could lead to identification of the individual parties. The annual report will be available to faculty, staff, and students upon request to the President. To the extent allowed by law, every member of the community will have the right to examine the files and records of any complaints, informal or formal, in which she or he is a complainant or a respondent.

(g) Education

Educational efforts are essential to the establishment of a campus milieu that is as free as possible of discrimination and harassment. There are at least four goals to be achieved through education: (a) educating individuals about the conduct that is prohibited; (b) ensuring that all faculty, staff and students are aware of their rights; (c) informing administrators about the proper way to address complaints of violations of this policy; and (d) helping educate the faculty, staff and students about the issues addressed by this policy. Diversity training, workshops and professional development seminars are available. Please contact the Human Resources Office at x3-1787.

(h) Preparation and Dissemination of Information

The Director of Institutional Diversity is charged with developing, coordinating, and disseminating the discrimination and harassment policy and procedures for the University. Accordingly, the Office of Institutional Diversity will provide summaries of this publication to all current members of the University community and to all those who join the community in the future.

A summary of this publication will be included in student orientation materials, and handbooks, including those distributed to students in the graduate and medical schools. In addition, copies of this publication will be made available on the Web, at appropriate campus centers, offices, and will be distributed in diversity training sessions.

Appendix A: Brown University Statements and Policies

The Corporation statement of nondiscrimination reads:

“Brown University does not discriminate against any person because of race, color, religion, age, national or ethnic origin, disability, status as a veteran, sexual orientation, gender identity, gender expression, or sex, except where sex is a bona fide occupational qualification.”

This sentiment is also echoed in the Brown University policy on Standards of Student Conduct. The policy states:

“All members of the Brown community are entitled to the following rights: the rights of peaceful assembly, free exchange of ideas and orderly protest, and the right to attend, make use of or enjoy the facilities and functions of the University subject to prescribed rules. All members of the Brown University community are also entitled to live in an environment free from harassment on the basis of such characteristics as race, religion, gender disability, age, economic status, ethnicity, national origin, sexual orientation, gender identity, or gender expression.”

Further, the University abides by a policy of equal employment opportunity and affirmative action. The policy states:

“Brown University has been and will continue to be committed to a policy of equal employment opportunity and to the principles of affirmative action. The University endorses the goals of equal employment opportunity and affirmative action as supportive of the University’s values. This commitment extends beyond ensuring neutrality in employment opportunities with regard to race, color, sex, age, religion, national origin, veteran status, disability, sexual orientation, gender identity and gender expression.

These policies and sentiments are also reflected in the following University publications:

- Faculty Rules and Regulations
- Student Rights and Responsibilities
- Human Resources Policies and Practices

Appendix B: Federal and State Laws

In addition to the policy statements set forth in Appendix A, which reflect the University's commitment to creating and maintaining an educational, working, living environment that is free of any unlawful discrimination, Brown University recognizes its legal obligations to pursue that same goal under applicable Federal and State statutes, which include:

Title VII of the Civil Rights Act of 1964.
The Equal Pay Act of 1963.
The Vietnam Era Veteran's Readjustment Assistance Act of 1974.
The Age Discrimination in Employment Act of 1967.
The Age Discrimination Act 1975.
Title VI of the Civil Rights Act of 1964.
Title IX of the Education Amendments of 1972.
The Rehabilitation Act of 1973.
The Americans with Disabilities Act.
The Older Workers' Benefit Protection Act.

Appendix C: Federal and State Offices

R.I. Commission of Human Rights (Title VII)	Phone: (401) 222-2661
Equal Employment Opportunity Commission Boston Office (Title VII)	Phone: (617) 565-3200
Office of Civil Rights Region 1, U.S. Department of Education	Phone: (617) 223-9662
Providence Police Department	Phone: (401) 272-1111
Attorney General of R.I.	Phone: (401) 274-4400

Appendix D: Discrimination and Harassment Complaint Form

[Download Discrimination Complaint Form](#)