



BROWN

COMPLAINT PROCESS

PURSUANT TO THE UNIVERSITY SEXUAL AND GENDER-BASED HARASSMENT, SEXUAL VIOLENCE, RELATIONSHIP AND INTERPERSONAL VIOLENCE AND STALKING POLICY*

Brown University is committed to providing an adequate, impartial, and reliable response to Complaints pursuant to the University Sexual and Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy. The University's process for addressing Prohibited Conduct are grounded in fairness and support for all parties, include procedural protections that ensure notice and meaningful opportunities to participate, and recognize the dynamics involved in Prohibited Conduct. For additional information, including Prohibited Conduct and related definitions, see:

<https://www.brown.edu/about/administration/title-ix/policy>

I. TO WHOM THIS PROCESS APPLIES

This process pertains to acts of Prohibited Conduct committed by any Brown University students, including students in the College, the Graduate School, the Alpert Medical School, the School of Public Health, the School of Engineering, and the School of Professional Studies (all collectively known together as "Students") when:

- (1) the conduct occurs on Brown University premises; and/or
- (2) the conduct occurs in the context of a Brown University employment, education, or research program or activity, including but not limited to Brown University-sponsored study abroad, research, internship, mentorship, summer session, or other affiliated programs or premises; and/or
- (3) the conduct occurs outside the context of a Brown University employment, education, or research program or activity, but (i) has adverse effects on Brown University premises or in any Brown University employment, education, or research program or activity or (ii) occurs in close proximity to Brown University premises and is connected to hostile conduct on Brown University premises.

Any individual, regardless of affiliation with Brown University, may file a Complaint.

II. INITIAL ASSESSMENT

When the Title IX Office becomes aware directly by a potential complainant or a third party of an incident which may involve gender-based misconduct, an Initial Assessment meeting will be conducted to gain a basic understanding of the nature and circumstances of the report. At this meeting, the potential complainant and/or third party will be provided with information about resources, procedural options, and remedial measures and an opportunity to discuss the University's policies.

A reasonable assessment of the safety of the individual and of the campus community will be made by a small interdepartmental team. The team will consider the interest of the complainant and the complainant's expressed preference for the manner of resolution. Where possible and as warranted by the facts and circumstances, the University will seek action consistent with the complainant's request.

III. FILING A COMPLAINT

*Throughout this policy, the pronouns "they," "them" "their" are being used intentionally to be inclusive of all genders.

If the potential complainant wishes to proceed with a resolution process, they will submit a written Complaint to the Title IX Office. Upon receipt of a Complaint, the Title IX Officer or Deputy Title IX coordinator will be responsible for making the following determinations:

- (1) Is the respondent a covered person as defined in Section I (To Whom This Process Applies)?;
and
- (2) Do the facts set forth by the potential complainant, if substantiated, constitute a violation of the University's Sexual and Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy?

If the answer to either question is no, the Title IX Office does not have the authority to resolve the Complaint and the potential complainant will be referred to the appropriate resources.

If the answer to both questions is affirmative, the Title IX Office has the authority to investigate and resolve the Complaint. In the event a student is charged with a violation of the Code of Student Conduct that is ancillary and related to the Complaint of Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy, the Title IX Office may also investigate and resolve the ancillary charge.

IV. STANDARD OF EVIDENCE

In all stages of the process, Brown will apply the preponderance of the evidence standard (more likely than not) when determining whether the University policy has been violated.

V. ADVISERS

Complainants and respondents are entitled to be accompanied and assisted by an adviser of their choosing at both formal and informal meetings, investigation interviews and, if applicable, a subsequent Title IX Council panel hearing. A pool of trained advisers is available to the parties, subject to their availability. There is no requirement that the adviser be chosen from this pool or be an individual from the Brown community. Advisers may not participate in the process or speak on behalf of the complainant or respondent, although they may ask to suspend any meetings, interviews, or hearings briefly to provide consultation. Complainants and respondents may choose to have an attorney serve as their adviser, but accommodations, including scheduling of interviews or hearings will not be made for any advisers, including attorneys, if they unduly delay the process.

VI. INFORMAL RESOLUTION PROCESS

In recognition that a wide spectrum of behaviors can constitute violations of University policies, the Title IX Office may resolve reports informally and appropriately, based on the circumstances. Informal resolutions generally are pursued when the complainant, having been fully informed of all available options, has explicitly made that choice. An informal resolution process is voluntary, and a complainant can ask to end the informal resolution process at any time before its completion. If an informal resolution process is ended by request, any information obtained may be used in a subsequent formal resolution process and hearing. Once a Complaint has been resolved through an informal resolution process, the matter will be closed.

For some limited types of alleged violations of the University policy an informal resolution may include mediation. Mediation is not an appropriate option for cases involving a Complaint of sexual assault and/or relationship and interpersonal violence, nor for circumstances involving severe misconduct behavior.

In all cases, the Title IX Program Officer will have discretion to determine whether or not informal resolution or mediation is appropriate to the circumstances.

VII. FORMAL RESOLUTION PROCESS

A formal resolution process will occur when (a) a report of a violation of the policy is made and the complainant seeks a formal resolution; or (b) the Title IX Office determines that a formal resolution process is necessary after considering the safety of the broader campus community. In the situation when there is a serious threat to the University community, but the potential complainant cannot or does not wish to proceed with the formal process, the Deputy Title IX coordinator or their designee, may assume the role of a complainant.

A. Formal Resolution Process Brief Overview (See Sections B and C for additional information.)

1. A written Complaint is submitted to the Title IX Office and the respondent receives notice of the allegations.
2. The respondent has five (5) business days to submit a statement.
3. An investigator is appointed by the Title IX Program Officer or a designee.
4. The investigation is conducted, witnesses are interviewed, information is gathered, and an initial investigation report is prepared and shared with both parties.
5. Within three (3) business days following receipt of the investigation report, both parties may provide a written response.
6. The investigation report is finalized and shared with the parties and the Chair of the Title IX Council.
7. The Title IX Program Officer and Chair of the Title IX Council appoint a three (3) member hearing panel from the Title IX Council.
8. The parties may submit a written statement to be considered by the hearing panel. The written statement must be submitted twenty-four (24) hours before the scheduled hearing.
9. The Chair of the Title IX Council provides hearing panelists with the investigation report and any written statements from the parties.
10. The hearing panel convenes with the investigator, if necessary, to ask questions related to the investigation report.
11. Parties may appear before the panel to make an oral statement.
12. The panel will convene to deliberate and render a decision, by majority vote, regarding whether the respondent has violated the University policy.
13. If there is a finding of responsibility for any violations, the panel will deliberate as to an appropriate sanction.
14. The Chair will prepare a written decision and rationale within five (5) business days, which will be shared simultaneously with the parties.

B. Investigation

The Title IX Office will notify the respondent of the Complaint in writing. The respondent will have five (5) business days to submit a written statement.

Following receipt of a response statement, the Title IX Program Officer or designee will appoint an investigator to the matter. The Title IX Office will have the discretion to determine whether the investigator will be internal (an employee at Brown) or external (an individual outside of the Brown community), or a combination of both internal and external investigators. The role of the investigator will be to gather additional information through interviews of the complainant, respondent, and witnesses and synthesize the information in a report that will be provided to the Title IX Council. The investigator has the discretion to determine the relevance of any witness or other evidence and may exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative.

i. Witnesses

Both the complainant and respondent are permitted to provide names of potential witnesses to the investigator. The investigator will determine which of those potential witnesses, or other persons, may have relevant

information about the alleged conduct and may request statements, either orally or in writing. Witnesses may include individuals outside the Brown community.

Witness statements should not be character evaluations, as all parties will be presumed to have good character. In addition, how individuals present themselves in other contexts (*e.g.*, friendly, kind, and well-liked) has little probative value in evaluating whether particular conduct occurred. Moreover, the sexual history of the parties will not generally be deemed relevant, as described below.

ii. Additional Evidence

Both the complainant and the respondent are permitted to provide other relevant evidence to the investigator. Evidence includes any facts or information presented in support of an assertion and may include text messages, email exchanges, timelines, receipts, photographs, etc. Any documentation shared by the complainant or the respondent with the investigator will be provided to the other party. The investigator may also consider additional documents, items or other relevant information.

Information that does not directly relate to the facts at issue, but instead reflects upon the reputation, personality, qualities, or habits of an individual is character evidence and is not relevant to the determination of whether there is a policy violation.

Pattern Evidence: Evidence of an occurrence or occurrences of prohibited conduct so distinctive and so closely resembling either party's version of the alleged encounter as to tend to prove a material fact may be considered. Where there is evidence of a pattern of similar prohibited conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a policy violation, this information may be deemed relevant to the determination of policy violation or assigning of a sanction. Instances will be rare and the determination of relevance will be based on an assessment of whether the previous or subsequent incident was substantially similar to the conduct cited in the report or indicates a pattern of behavior and substantial conformity with that pattern.

Prior Sexual History of the Parties: An individual's character or reputation with respect to other sexual activity is not relevant and will not be considered as evidence. Similarly, an individual's prior or subsequent sexual activity is typically not relevant and will only be considered as evidence under limited circumstances. For example, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve other questions raised by the report. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

Prior Sexual History Between the Parties: Even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. Where the parties have a prior sexual relationship, and the existence of consent is at issue, the sexual history between the parties *may* be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether consent was sought and given during the incident in question. However, this does not assume that the prior sexual history was consensual and this should be a factor in considering relevance.

iii. Investigation Report

The investigator will produce a written report that contains the relevant information and facts learned during the investigation, and may include direct observations and reasonable inferences drawn from the facts and any consistencies or inconsistencies between the various sources of information. The investigator may exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. The investigator will not make a finding or recommended finding of responsibility. The investigator's report will include credibility assessments based on their experience with the complainant, respondent, and witnesses, as well as the evidence provided.

The investigation report will be shared with the Title IX Program Officer, as well as the complainant and the respondent to review before it is finalized. Within three (3) business days, the complainant and respondent may offer additional comment, clarify information previously shared, suggest additional witnesses, or identify any other relevant information or evidence to assure the thoroughness and sufficiency of the investigation. When the report is finalized, it will be delivered to both parties, the Title IX Program Officer and the Chair of the University Title IX Council. The complainant and respondent may only share the investigation report for the purpose of receiving counsel or advice related to the University process.

C. The University Title IX Council: Role, Procedure and Responsibility

The role of the University Title IX Council is to review the information presented in the investigation report and to determine if an individual or individuals violated the University policy (and, if yes, to determine an appropriate sanction). An appropriate hearing panel of three (3) members from the Council will be formed for each case.

i. Role of the Chair

The Chair of the Council presides over the hearing panel as a non-voting member. The Chair is responsible for the administration of the hearing process, including procedural matters and decisions leading up to the hearing, determinations about information that will be considered or not, appropriate and inappropriate lines of questioning, and the overall decorum and conduct of the proceedings.

ii. Hearing Process and Deliberations

The panel will receive the investigation report five (5) days in advance of the hearing. Complainants and respondents may submit a written statement to the panel, which must be submitted to the Chair of the Council twenty-four (24) hours before the hearing.

The hearing panel will convene with the investigator (although the Chair has the discretion to determine if a meeting with the investigator is not necessary). The complainant and respondent will not be present in the hearing room. The hearing panel may ask the investigator questions related to the investigation report. The hearing panel may also request to hear from one or more of the witnesses. The Chair has complete discretion to approve or deny those requests. The presumption is that the investigator has identified and interviewed all relevant witnesses and supplied the information necessary for the hearing panel to render its decision and determine sanctions. It is rare for witnesses to appear before the hearing panel. If any additional relevant information is gathered after the investigation report is finalized, that information will be shared with both parties and each may submit a written response to the Chair within three (3) days of the date the information is received.

The complainant and respondent will be granted the opportunity to appear before the hearing panel if they wish and make an oral statement regarding the facts. The complainant and respondent will not be in the hearing room together, unless both parties agree in writing. The party who is not before the Council may have audio access to the hearing via telephone when the other party appears. The hearing panel may ask questions. Again, the presumption is that the information necessary to render a decision and arrive at an appropriate sanction is in the investigation report, so extended statements or questioning is unnecessary.

The hearing panel will convene to deliberate and render a decision, by majority vote, regarding whether or not the respondent has violated the University policy by a preponderance of the evidence. No member may abstain.

iii. The Sanction and Decision

If the hearing panel determines that the respondent is responsible for one or more violations of the University Policy, it will then deliberate as to an appropriate sanction. The hearing panel will be permitted to consider prior policy violations in determining an appropriate sanction.

The Chair prepares the hearing panel's written decision and rationale, including a finding of responsibility or non-responsibility, and, if applicable, the sanction and rationale. Within five (5) business days, the report of the hearing panel will be provided simultaneously to the complainant and the respondent.

If a respondent is found responsible and the sanction includes separation, they will be immediately removed from campus residentially and (depending on circumstances) either severely restricted in their movements on campus (e.g., only able to attend classes and labs) or barred completely during the entirety of the appeal process.

D. The Appeals Process

The complainant and respondent have the right to appeal final determination of responsibility and/or the resulting sanction based on the limited grounds of substantial procedural error that materially affected the outcome and/or material, new evidence not reasonably available at the time of the hearing. Written requests for appeal must be submitted within three (3) business days following delivery of the notice of the outcome. Each party may respond in writing to any appeal submitted by the other party. Written responses must be submitted within three (3) business days following delivery of the notice of the written appeal. Written requests for appeal submitted by one party will be shared with the other party.

Appeals are heard by a three (3) member appeal panel drawn from the membership of the University Title IX Council. The appeal panel's responsibility will be strictly limited to determining if there was substantial procedural error that materially affected the outcome and/or new evidence not reasonably available at the time of the hearing. If either or both are found by the appeal panel, the appeal will be granted. If the appeal is denied, the matter is closed.

If the appeal is granted:

- (1) due to a substantial procedural error, the matter will be heard by a new hearing panel.
- (2) due to the discovery of new evidence not reasonably available at the time of the initial hearing, the matter will be returned to the same panel which originally heard the matter for reconsideration in light of the new evidence.

In the event of a reconsideration, the appeal panel will give the hearing panel instructions regarding the nature and extent of its reconsideration. The hearing panel will act promptly to reconsider the matter consistent with those instructions. Following reconsideration, the finding of the hearing panel or the sanction imposed by the decision-maker will be final and not subject to further appeal.

VIII. WITHDRAWAL OF A COMPLAINT

The complainant may request to withdraw a Complaint at any time. The University reserves the right to make a determination whether to approve or deny this request, but will strongly consider the complainant's wishes.

IX. TIMEFRAME FOR COMPLETION OF INVESTIGATION AND DISCIPLINARY PROCESS

The University cannot promise the definitive timeframe of this process, but ordinarily will complete its investigation and disciplinary process, if any, within sixty (60) days. This time period does not include the time for an appeal. The U.S. Department of Education has made clear that the length of investigations may vary with the complexity and unique factors in each case. Examples of such factors include, without limitation, circumstances in which critical witnesses are unavailable or if law enforcement requests the University temporarily halt its investigation for a brief period of time. Accordingly, all timeframes set forth in this policy

may be altered by the Title IX Program Officer for good cause. The University's overarching goal is that all Complaints be investigated in a prompt, fair, and impartial manner.