



THE ADMINISTRATIVE BOARD OF HARVARD COLLEGE

Disciplinary Process for alleged violations of the Sexual and Gender-
Based Harassment Policy

Introduction

The College recognizes that deciding whether or not to file a complaint against another student alleging violation(s) of the University's Sexual and Gender-Based Harassment Policy can involve many factors. This guide is meant to assist you as you make your decision by outlining the process of lodging a formal complaint of sexual or gender-based harassment – from the investigation of the complaint by the Office for Dispute Resolution (ODR) to the disciplinary process of the Administrative Board. If at any point you have further questions about the Administrative Board process, you are welcome to consult with the Secretary of the Administrative Board (adboard@fas.harvard.edu; 617-384-7239).

There are many resources you can consult as you make this decision, including the College Title IX Coordinators, the Office for Dispute Resolution (ODR), and the Office of Sexual Assault Prevention and Response (OSAPR). These individuals and offices can present the options available to you and answer any questions you may have about the University's policy or procedures. The ODR and the College Title IX Coordinators can talk with you about whether an informal resolution is possible in your case, and they can discuss with you the interim measures that can be put in place to support and protect you. You can communicate with both ODR and the College Title IX Coordinators even if you decide not to file a complaint.

As a potential complainant, you may be concerned that the circumstances under which the incident occurred might compromise your ability to bring an allegation forward or that they may subject you to disciplinary action. The College's focus in a case of sexual and/or gender-based harassment is on the allegations that constitute the violation, regardless of the surrounding circumstances. You are encouraged to come forward if you believe the University Policy has been violated.

When a complaint involves allegations of serious criminal conduct, we advise students to seek legal counsel before making any written or oral statements to the College. The College's disciplinary process is pedagogical rather than judicial; however, the Board advises students to seek legal advice about how the College's disciplinary process could affect any criminal case in which they may be involved. In the ODR process, a student may seek the assistance of a personal advisor of his or her choice, including an officer of the FAS or an outside attorney. Ordinarily, if a complaint is being pursued through the criminal justice system, the ODR may assess the timing of the investigation so that it does not compromise the integrity of the criminal investigation.

Regardless of whether or not you decide to file a formal complaint, we encourage you to seek out the many support services available at the College. If at any time you believe you would benefit from confidential counseling to help cope with any personal distress, you are encouraged to contact the Bureau of Study Counsel (617-495-2581) or the Harvard University Counseling and Mental Health Service (617-495-2042). In particular, a number of resources for cases involving sexual misconduct are listed and described in detail on the website of the Title IX Office in the [Procedures for Complaints Against Students](#) and on the Sexual Harassment/Assault Response and Education (SHARE) website at <http://share.harvard.edu/find-resources>. Although the process can be difficult, please be assured that there are many different people at Harvard and elsewhere who can help you.

Overview of the Complaint Process

The formal complaint process begins when a student, faculty member, staff member, or third party files a written complaint of sexual or gender-based harassment with the ODR. The person bringing forward the allegation is called the *Complainant* (or a Reporter, if it is a third party filing on behalf of a potential Complainant). The student against whom the complaint is brought is called the *Respondent*. Once a complaint is received, the ODR will do an initial review of the allegations with the aim of determining whether the allegation, if true, would violate the University's Sexual and Gender-Based Harassment policy. If the ODR decides that the allegation, if true, would violate this

policy, an investigation is initiated. At this point, the Respondent is informed by the ODR of the allegation, and ordinarily, the Respondent has a week in which to submit a written response to the complaint. At this time the Secretary of the Administrative Board will also meet with the Respondent to explain the disciplinary process that may follow the ODR investigation and the range of possible sanctions under the College's policies.

The ODR is responsible for investigating the allegation and issuing a final report of its findings. The Administrative Board's only involvement at this point is in selecting one of its members to serve as the *Liaison* between the Administrative Board and the Investigator; the Liaison will keep the Administrative Board apprised of the investigation and is available to answer the Investigator's questions about FAS policies and student life at the College. Both the Complainant and the Respondent may choose personal advisors who can accompany them to any interviews with ODR and can offer advice through the process. In the ODR process, a student may seek the assistance of a personal advisor of his or her choice, including an officer of the FAS or an outside attorney. The Resident Deans of Freshmen/Allston Burr Assistant Deans of Harvard College in the Houses are also available as resources for the Complainant and Respondent and to assist with implementing interim measures within a House or Yard community. They are also able to play the role of personal advisor, should the student request it.

At the conclusion of the investigation, the Investigator will make a finding of fact and determine whether or not there was a violation of the Sexual and Gender-Based Harassment Policy. The Investigator will give the Complainant and the Respondent a draft of the report, and each then has the opportunity to respond to the draft. The final report will be given to the Complainant and Respondent and the College Title IX Coordinator, ordinarily within six weeks of the initiation of the complaint. Both the Complainant and the Respondent may appeal the decision of the Investigator if they feel that a procedural error occurred, which may change the outcome of the decision, or that there is substantive and relevant new information that was not available at the time of the investigation and may change the outcome of the decision.

During the course of an ODR investigation, if it is determined that other School or University conduct policies may be implicated, the matter may be referred to the Secretary of the Administrative Board. This may occur at any point, whether or not a violation of the Sexual and Gender-Based Harassment Policy has been found.

Overview of the Disciplinary Process

Once the final report has been given to the Complainant, the Respondent, and the Title IX Coordinator, the report from the ODR is forwarded to the Administrative Board for consideration of the disciplinary response, since the Faculty alone has the authority to administer discipline to students. The Administrative Board (which enforces the Faculty's rules) must accept as final the ODR report's findings of fact and its conclusions about whether or not there was a violation of University Policy; the Board is responsible for the administration of discipline as appropriate.

After receiving the report, the Secretary of the Administrative Board will meet with the Respondent to discuss possible disciplinary outcomes. The Complainant may also meet with the Secretary at any time. Once the case enters the Administrative Board process, both the Complainant (if a Harvard College student) and the Respondent will have an official Board Representative on the Administrative Board who will serve as a liaison between the student and the College. If the Complainant is not a student at Harvard College, the Secretary of the Administrative Board or his or her designee will serve as the Complainant's Board Representative.

Ordinarily, a student's Board Representative is his or her Resident Dean of Freshmen/Allston Burr Assistant Dean. A student may choose any other voting member of the Board (except for the Chair, the Associate and Assistant Deans of Academic Integrity and Student Conduct) as an alternate to serve as a Board Representative if the student feels that person will be better able to assist the student. If both the Complainant and the Respondent are residents of the same Yard or House, the Resident Dean of Freshmen/Allston Burr Assistant Dean ordinarily will advise only one of the students and a "Board alternate" will be assigned by the Dean of the College or selected by the other. To choose someone other than your de facto Board Representative, contact the Secretary of the Board. Though your Board Representative does not vote on your case, he or she does speak on your behalf and participates in deliberations about your case.

Within three days of receiving the final report from the ODR, the Complainant and the Respondent may each submit a written statement to the Secretary of the Administrative Board addressing the possible outcomes of the disciplinary process. These written statements may not challenge the validity of the findings of the final report, and they may not introduce facts that could have been presented to the Investigator.

The final report from the ODR, plus any statements from the Complainant and Respondent, will be sent to the full Administrative Board, which will meet and decide the disciplinary outcome of the case.

Possible Outcomes

The Administrative Board's role is generally to calibrate any disciplinary response. The Board's disciplinary case decisions generally depend on two criteria:

- (1) the seriousness of the infraction; and,
- (2) extenuating circumstances, including the extent to which a student has had previous violations of policy.

The Board may take one of a number of actions. The following possible actions *do not* change a student's status at the College, meaning that the student remains "in good standing":

Scratch. There are no grounds for action. A decision of scratch is recorded in a student's file to signal that the Board had no disciplinary response. [**This action would only be possible if the Office of Sexual and Gender-Based Dispute Resolution determined that there was no policy violation.]

Take No Action. A serious accusation was made but was not or could not be substantiated. [**This action would only be possible if the Office of Sexual and Gender-Based Dispute Resolution determined, through the preponderance of evidence standard, that they could not find a policy violation.]

Admonish. A warning from the Board that a student has violated the rules or standards of conduct in the College. The Board may respond to any future instances of misconduct with formal disciplinary action.

The following possible Board actions *do* change a student's status in the College, meaning that the student is no longer considered to be "in good standing." This information is disclosed to parents or guardians, as well as to graduate or professional schools under certain circumstances.

Place on Probation. A student on disciplinary probation has displayed behavior that causes considerable concern, and students on probation are expected to pay close attention to their conduct, both during the period of probation and after. The Board will likely respond more seriously (e.g., requirement to withdraw) to further infractions. A student is relieved of probation at the end of the time period set by the Board, typically one or two terms, provided there has been no further misconduct.

Requirements and Restrictions (at the Board's discretion). When a particular activity contributed directly to the problem for which a student was placed on probation, requirements and restrictions may be placed on that student. Restrictions, for instance, might include barring a student from participating in an extracurricular activity that contributed to the misconduct.

Require to Withdraw. When a student's conduct is unacceptable and the Board has determined that the student needs to be separated from the College to gain perspective on his or her actions, then the Board requires the student to leave the Harvard community and to hold a full-time, paid, non-academic job in a non-family situation for at least six consecutive months before petitioning for readmission to the College. The length of withdrawal normally ranges from two to four terms. Readmission to the College after a requirement to withdraw is not automatic and requires a vote of the full Administrative Board. A readmitted student generally returns in good standing unless the misconduct also resulted in an unsatisfactory academic record. Ordinarily, a second requirement to withdraw, whether for a disciplinary

case or academic review, is final, meaning that, should a student petition to return, the petition will ordinarily not be granted.

Recommendation to Dismiss or Expel. In the most serious cases of misconduct, the Administrative Board may require a student to withdraw with a recommendation that he or she be dismissed or expelled from the College. Dismissal and expulsion sever a student's connection with the University. A dismissed student can be readmitted only by a vote of the Faculty Council; a student who has been expelled may not be readmitted. The Administrative Board cannot itself dismiss or expel a student but instead recommends such action to the Faculty Council, which is empowered to impose that sanction.

Any disciplinary action requires at least a majority vote of those present and eligible, and, in the case of a requirement to withdraw, at least a two-thirds vote of the members present and eligible to vote. (A student's own Resident Dean of Freshmen/Allston Burr Assistant Dean and Board Representative, if different, are not eligible to vote, and the Chair of the Board ordinarily does not vote.) Ordinarily, a close vote will lead to further deliberation of the case by the Board, after which another vote may be taken.

A degree will not be granted to a student who is not in good standing, or against whom a disciplinary charge is pending. A student on a leave of absence, whether voluntary or involuntary, is ordinarily not allowed to return and register until any pending disciplinary case is resolved.

Conclusion of the Case

The Board's proceedings and decisions are confidential and communicated only to those with a need to know. The Respondent will be notified of the decision of the Board by their Board Representative, and the Resident Dean of Freshmen/Allston Burr Assistant Dean will send a letter confirming the Board's decision in writing. In certain circumstances, the College is obligated to notify the Complainant of the sanctions, as well. If the Complainant is not a student at the College, the individual will be notified by the Secretary of the Board. Please consult the Secretary of the Board if you have any questions related to this policy.

After the case has been decided, all materials reviewed by the Board members are destroyed. Regardless of the outcome, a redacted copy of the confidential final report from ODR as well as student statements to the Administrative Board will be placed in a sealed envelope in the student's College files (both if both Complainant and Respondent are Harvard students). These documents are part of students' educational records as defined and protected by federal law.

If you have questions about the process or the procedures of the Board, you should contact your Resident Dean of Freshmen/Allston Burr Assistant Dean, Board Representative (if different), or the Secretary of the Administrative Board at adboard@fas.harvard.edu (617-384-7239). Further information about the Administrative Board is available at www.adboard.fas.harvard.edu and in the *Handbook for Students* at <http://handbook.fas.harvard.edu>.