

**HARVARD MEDICAL SCHOOL
AND HARVARD SCHOOL OF DENTAL MEDICINE
PROCEDURES FOR RESOLVING COMPLAINTS OF
DISCRIMINATION, HARASSMENT, OR
UNPROFESSIONAL RELATIONSHIPS AND ABUSE OF AUTHORITY**

I. STATEMENTS OF POLICY

The Harvard Medical School and the Harvard School of Dental Medicine are firmly committed to maintaining an environment free from discrimination and sexual harassment. HMS and HSDM are also firmly committed to maintaining an environment free from unprofessional relationships and abuses of authority.

This document describes the options available to members of the HMS and HSDM community who believe that they have been sexually harassed or subjected to unprofessional relationships/abuses of authority.

A. Discrimination and Sexual Harassment

It is the strong and consistent policy of HMS and HSDM to treat all members of the HMS/HSDM community with respect, to provide an environment conducive to learning and working, and to ensure equal access to rights, privileges and opportunities without regard to race, color, sex, sexual orientation, gender identity, religion, age, national or ethnic origin, political beliefs, veteran status, or disability. Discrimination on the basis of these characteristics is inconsistent with these principles and violates obligations of non-discrimination imposed by law and Harvard policy.

Sexual harassment is unacceptable because it interferes with a person's dignity and well-being in the HMS/HSDM community, seriously undermines the atmosphere of trust essential to the academic enterprise, and is discrimination violative of law and Harvard policy. The determination of what constitutes sexual harassment will vary with the particular circumstances, but it may generally be described as unwelcome behavior of a sexual nature (including but not limited to physical contact; verbal conduct including comments, invitations, questions, suggestions, or jokes; staring or leering) that meet at least one of the following three criteria: (1) submission to such conduct is, either explicitly or implicitly, a term or condition of an individual's employment or educational experience; (2) submission to or rejection of such conduct is used as a basis for making employment or educational decisions affecting an individual; or (3) such conduct unreasonably interferes with an individual's work or academic performance or creates a pervasively and objectively hostile work or learning environment. In the academic context, a particularly serious occurrence of sexual harassment exists when attention of a sexual nature by a faculty member, fellow, supervisor, or other officer is directed to an individual over whom he or she is in a position to exercise professional power. Sexual harassment can also occur between persons of the same HMS or HSDM status.

B. Unprofessional Relationships and Abuse of Authority

Amorous relationships that might be appropriate in other circumstances have inherent dangers when they occur between any HMS or HSDM faculty, fellow, or officer and any person over whom he/she has a professional responsibility, e.g., as a teacher, advisor, preceptor, or supervisor. Such relationships are fundamentally asymmetric, unprofessional, and an abuse of authority. In addition, such relationships are to be avoided because they may create an impression on the part of colleagues of inappropriate or inequitable academic or professional advantage or favoritism that is destructive of the learning or working environment.

HMS and HSDM faculty, fellows, and officers should be aware that any romantic involvement with students, other trainees, junior colleagues, or staff members over whom they have a professional responsibility makes them liable to complaint and formal action under these procedures. Even when both parties have initially consented to such a relationship, it is the more senior individual, who, by virtue of his/her special responsibility, may be held accountable for the unprofessional relationship or abuse of authority. If an amorous relationship develops between members of the HMS or HSDM community, the professional relationship – whether as supervisor, teacher, preceptor, or advisor – should be dissolved promptly by the more senior person.

II. GENERAL PRINCIPLES

- A.** All persons charged with responsibility under these procedures will discharge their obligations with fairness, objectivity and rigor.
- B.** All activities under these procedures will be conducted with regard for the legitimate privacy and reputational interests of the complainant and respondent. It is expected that complaints and other activities under these procedures will be confidential and will be shared only with those with a legitimate need to know in order to complete the investigation and take appropriate remedial action. The parties will likewise observe this expectation. Disclosure of otherwise confidential information may also be made where necessary to protect the health, safety or well-being of the complainant or others in the HMS/HSDM community, to comply with legal obligations of the University, or where, in the judgment of the Dean, certain disclosure would be in the best interest of the parties or the University.
- C.** Retaliation against a complainant for raising an allegation of abuse of authority or discrimination, including sexual harassment, or for cooperating in an investigation of such a complaint is prohibited. Retaliation against an individual who, in good faith, reports alleged harassment or who participates in an investigation is a violation of our policy and will result in appropriate discipline.
- D.** These are academic, not legal procedures. Any evidence that a fact-finder or panel deems relevant and trustworthy may be considered.

Formal rules of evidence do not apply. Although complainants and respondents may seek legal advice, it is not expected that attorneys will speak for individuals in appearances before individuals or panels charged with responsibility under these procedures.

E. A person subject to a complaint under these procedures may object for good cause, such as evidence of conflict of interest or bias, to the service of any person as a fact-finder or panel member. Such objection must be in writing, must fully state the reasons for the objection, and must be received by the Chair of the Standing Committee on Rights and Responsibilities (SCRR) within three business days after the person is notified of the identity of a fact-finder or the membership of a panel. The Chair of the SCRR may, if warranted, remove and replace a fact-finder or panel member.

F. The Ombudsperson will inform and consult with officers of affiliated institutions, other faculties, and relevant external agencies to meet the legal and good faith obligations of the Faculty.

G. Upon prior notice to the parties, these procedures may be modified in order to reach a full and fair resolution of the complaint.

H. In its sole discretion, HMS or HSDM may take such interim measures as it considers necessary to protect the complainant, respondent, or others affiliated with the process.

I. The composition and function of the SCRR is described in the Harvard Medical School *Policy and Procedures on Student Rights and Responsibilities*.

III. PROCEDURES¹

Allegations of harassment or unprofessional relationships or abuse of authority will be addressed in two different ways: (1) counseling, advice, and informal resolution; or (2) formal complaint procedures. Any member of the HMS or HSDM community who believes to be the object of harassment or unprofessional relationships may choose to bring a complaint either informally or formally. In some instances, even where the complainant decides not to pursue the matter, the HMS or HSDM Dean may nonetheless decide that the allegations should be investigated. Any member of the HMS or HSDM community who believes that another member of the community has been the object of harassment or an unprofessional relationship should bring the matter to the attention of the Ombudsperson.

¹ If the matter involves a complaint with the Ombudsperson, it should be brought directly to the attention of the Dean for Faculty Affairs, who will delegate the inquiry to another member(s) of his or her staff or University official(s) or, in the extraordinary case, handle the matter him or herself.

A. COUNSELING, ADVICE, AND INFORMAL RESOLUTION

In many instances, counseling, advice, informal discussion, or mediation may be useful in resolving perceived instances of discrimination, harassment, unprofessional relationships and abuse of authority, or other conflicts between members of the HMS/HSDM community.

Complainants who wish to seek to resolve their concerns informally should bring the matter to the attention of the Ombudsperson. The role of the Ombudsperson is to provide assistance in a neutral capacity and not to act as an advocate for any individual or point of view.

In an effort to resolve the matter, the Ombudsperson may ask the complainant and the respondent to meet together or may interview other individuals who may be knowledgeable of the facts underlying the concerns. If the matter cannot be resolved informally, the complainant may wish to pursue the matter through the formal complaint procedures described below. In addition, at any point in the informal process, the complainant may choose to pursue the matter formally.

B. FORMAL COMPLAINT PROCEDURES

The formal procedures described below are available to resolve complaints of discrimination, harassment, and abuse of authority/unprofessional relationships involving members of the HSDM/HMS faculty. Formal complaints involving other members of the HMS/HSDM community are addressed by other established procedures. The Ombudsperson is equipped to advise a complainant as to what avenues of redress may be available.

1. Jurisdiction ²

1. Complaints Against Individuals at Affiliated Institutions

(a) If the individual against whom a complaint is lodged has no HMS or HSDM affiliation, these procedures will not apply. Any formal proceedings will be within the jurisdiction of the affiliated institution.

(b) If the individual against whom a complaint is lodged has an HMS or HSDM affiliation, he/she is subject to these procedures in addition to any procedures of the affiliated institution that may be applicable. HMS will be in communication with and will seek the cooperation of responsible officials of the affiliated institution and may, where appropriate, conduct joint proceedings to avoid duplicative processes.

² If, at the time of the alleged incident, the individual against whom the complaint is lodged had an HMS or HSDM affiliation but no longer does, the Dean shall determine whether such complaint should be handled under these procedures or addressed in another way.

2. Complaints Against Individuals With an HMS or HSDM Affiliation.

(a) If the individual against whom a complaint is lodged is an HMS or HSDM faculty member, such a complaint will be handled under these procedures; provided however, that complaints of discrimination in HMS or HSDM appointments or promotions will ordinarily be handled by the Committee on Consultation and Appeals.

(b) If the individual against whom a complaint is lodged is an HMS or HSDM student, the Ombudsperson will consult with the Screening Committee established under the *Procedures for Consideration of Unprofessional Conduct* and, in the case of an HSDM student, with the HSDM Associate Dean for Curriculum and Student Affairs. Ordinarily, such a complaint will be handled under the *Procedures for Consideration of Unprofessional Conduct*.

(c) If the individual against whom a complaint is lodged is an HMS or HSDM non-exempt staff member represented by the Harvard Union of Clerical and Technical Workers (HUCTW), the Ombudsperson will consult with the HMS Office of Human Resources. Ordinarily, such a complaint will be handled under the procedures of the HUCTW *Personnel Manual*.

(d) If the individual against whom a complaint is lodged is an HMS or HSDM exempt staff member, the Ombudsperson will consult with the HMS Office of Human Resources. Ordinarily, such a complaint will be handled under the procedures of the *Harvard University Personnel Manual*.

(e) Where there is uncertainty or dispute as to which committee or procedure has jurisdiction over a complaint, the matter will be referred to the Dean of the Faculty of Medicine and/or the Dean of the Faculty of Dental Medicine for decision.

(f) Where these procedures and those of another institution or another HMS or HSDM committee are involved, the Ombudsperson will be responsible for ensuring that all lines of communication are in place and that all processes are appropriately coordinated.

2. Formal Procedure

1. *Initiation and Screening of a Formal Complaint*

(a) A formal complaint is initiated when a full written and signed statement of the complaint is submitted to the Ombudsperson. Prompt submission of complaints is encouraged. The Ombudsperson will discuss the matter with the complainant and will describe the review process.

(b) The Ombudsperson will promptly provide the complaint to the Chair of the SCRR, who, in consultation with other members of the committee or HMS or HSDM administrators, may dismiss it without further process or review if the complaint on its face is frivolous, insubstantial, not credible, clearly without merit, or outside the scope of these procedures.

2. *Grievance Panel*

(a) If the complaint is not dismissed, a three member grievance panel will be selected by the SCRR Chair from the members of the SCRR. In any case where additional or special expertise would be useful, the Chair of the SCRR, in consultation with the HMS or HSDM Dean, as appropriate, may designate members of the senior faculty of the University, other than those serving on the SCRR, to membership on a grievance panel.

(b) The statement of complaint will be provided to the panel and to the respondent. The respondent shall respond in writing to the complaint within ten business days of receipt of the original complaint. This response will be provided to the complainant.

(c) The grievance panel will consider the written submissions of the complainant and respondent, and will meet with each of them. The grievance panel may interview other individuals with relevant knowledge, review documentary evidence, and take any other action to adduce and consider relevant information. The grievance panel may dismiss the complaint at this point if it determines the complaint to be frivolous, not credible, insubstantial, or without merit.

(c) The grievance panel will prepare a written report of its findings, conclusions, and recommendations and will provide its report to the complainant and respondent for review and comment. Any comments must be in writing and submitted to the panel within ten business days of receipt of the report of the grievance panel. If not appealed, the decision of the grievance panel is the final resolution of the complaint.

(d) Ordinarily, the grievance panel process will be completed within six months from the receipt of the respondent's response to the complaint. Throughout the process, the grievance panel will endeavor to inform the parties of the status of the complaint.

3. *Appeal to the Dean*

(a) Either party may request that the HMS or HSDM Dean, as appropriate, review the matter. Any such request for review must be in writing and received by the Office of the Dean within seven business days of the decision of the grievance panel. The Dean

will review the matter, in consultation with others as he sees fit. The decision of the Dean will on the matter will be final and binding.

(b) Ordinarily, the Dean will issue his/her decision within one month from the receipt of the appeal.

IV. PENALTIES AND CORRECTIVE ACTION

Penalties and corrective actions may be imposed for violation of the policies on discrimination, harassment, and unprofessional relationships and abuse of authority. These will vary depending on the nature of the case. Penalties and corrective actions may include, but are not limited to, counseling, warning, reprimand, suspension, probation, monitoring, community service, and separation from the School. The responsible Office of the Dean shall ensure that all penalties and corrective actions are implemented.

Approved by Faculty Council: November 12, 2008