



## **HARASSMENT/DISCRIMINATION POLICY**

In accord with its mission Urban College of Boston (“The College”) believes that each individual should be treated with respect and dignity and that any form of sexual violence, harassment and/or discrimination is a violation of human dignity. The College condemns sexual violence, harassment and discrimination and maintains a “zero-tolerance” for sexual violence, harassment and/or discrimination. Students, faculty, and staff have the right to work and learn free of sexual violence, harassment and discrimination. The College will take all reasonable efforts to prevent and promptly correct instances of sexual violence, harassment or discrimination. Additionally, students, faculty and staff have the right to a structured process for resolving problems, complaints or grievances relating to the execution of institutional policies. The purpose of this policy is:

- a. To communicate the mechanisms for investigating complaints in a manner that reasonably protects the privacy of individuals involved in situations of alleged sexual violence, harassment and/or discrimination and grievances;
- b. To ensure the provision of equal employment and educational opportunities to faculty, staff, students and applicants for such opportunities without regard to race, color, religion, sex, marital status, national origin, age, disability, citizenship, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes;
- c. To protect all those involved who report or provide information related to sexual violence, harassment, discrimination, and/or grievances from retaliation of any kind;
- d. To set forth guidance for preventing sexual violence, harassment and/or discrimination;
- e. To take timely corrective action when sexual violence, harassment and/or discrimination is alleged to have occurred;
- f. To ensure that students, faculty and staff have the opportunity to present grievances to the College regarding a certain action(s) perceived to be in violation of institutional policies by a member of the College community; and
- g. To establish a consistent process for resolving complaints of sexual violence, harassment and/or discrimination and grievances in a fair and just manner.

### **POLICY**

It is the policy of the College to provide equal employment and educational opportunities to faculty, staff, students and applicants without regard to race, color, religion, sex, marital status, national origin, age, disability, citizenship, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes. In addition, it is the policy of the College to comply with applicable state statutes and local ordinances governing nondiscrimination in employment and educational activities. It is also the policy of the College to address grievances that are perceived to be in violation of an institutional policy that are not governed by other specific grievance procedures. Upon notification, the Dean of Enrollment and Registrar who is the designated Title IX Compliance Officer for the College, will determine if an investigation is warranted, enabling the office to investigate and to take corrective action where appropriate.

Acts of sexual violence, harassment and discrimination are considered serious violations of this College policy. Because of the seriousness of these actions, the full range of institutional action, including separation, termination, suspension and expulsion may be imposed.

A member of the College community who believes himself or herself to be victim of sexual violence, harassment and/or discrimination is encouraged to report the information to the Dean of Enrollment. The College requires all faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare to report any information they learn about discriminatory harassment, sexual harassment, discrimination, or

sexual violence to the Dean of Enrollment . The College encourages staff and students to report all instances of sexual violence, harassment and discrimination.

The College will broadly disseminate this policy and distribute a list of resources available to respond to grievances, as well as concerns of sexual violence, harassment and/or discrimination..

## **SCOPE/ELIGIBILITY**

This policy applies to all faculty, staff, and students of the College community. Non-college employees, including vendors, independent contractors, and other outside parties who conduct business with the College through affiliation and other agreements will be expected to comply with this policy as well, as specified by the terms of any contract or agreement between the College and such third party.

Additionally, this policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, benefits, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

This policy also applies to all incidents of alleged sexual violence, harassment and/or discrimination, including those which occur off campus or outside of normal work, class or business hours, where the alleged incident involves a member of the College community and a supervisor, co-worker, faculty member, student, or non-College employee.

## **DEFINITIONS**

- Complainant.** An individual who is subject to alleged discrimination, harassment, retaliation, or unfair treatment regarding the interpretation or application of an existing College policy.
- Respondent.** An individual whose alleged conduct is the subject of a complaint.
- Discrimination.** Any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual's actual or perceived race, color, religion, sex, marital status, national origin, age, disability, citizenship, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes. The conduct must be so objectively offensive as to alter the conditions of the individual's employment or educational experience.
- Discriminatory Harassment.** Detrimental action based on an individual's actual or perceived race, color, religion, sex, marital status, national origin, age, disability, citizenship, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes that is so severe, persistent or pervasive that it unreasonably interferes with or limits an individual's ability to participate in or benefit from the work or educational environment. Examples of harassment include, but are not limited to, intimidation and humiliation as expressed by communications, threats, acts of violence, hatred, abuse of authority, or ill-will that assault an individual's self-worth. Harassment of a non-sexual nature can include slurs, comments, rumors, jokes, innuendoes, cartoons, pranks and other verbal or physical conduct, frequent, derogatory remarks about women even if the remarks are not sexual in nature and any other conduct or behavior deemed inappropriate by the College.
- Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment where: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic progress, (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive educational or workplace environment.
- Hostile Environment.** Harassment that is sufficiently pervasive as to alter the conditions of employment or the educational environment and create an abusive environment in which to work or study. The person alleging a hostile environment must show a pattern or practice of harassment against him or her; a single incident or isolated incidents generally will not be sufficient. In determining whether a reasonable person in the individual's circumstances would find the work or educational environment to be hostile, the totality of the circumstances must be considered.
- Stalking.** A pattern of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.
- Sexual Violence.** As defined by the United States Department of Education's Office of Civil Rights 2011 Guidance, sexual violence is a severe form of hostile environment sexual harassment that represents conduct involving physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.

An individual's inability to consent to sexual activity may arise from use of drugs or alcohol or individual conditions including intellectual or other disability

- ☐ **Dating Violence.** Violence by a person who is or has been in a social relationship of a romantic or intimate nature (serious, casual, monogamous or not, short or long-term) with the victim.
- ☐ **Domestic Violence.** Violence by a current or former spouse of the victim, by a person with whom the victim shares a child in common, or by a person who is cohabitating with or has cohabitated with the victim.
- ☐ **Retaliatory Harassment.** Intentional action taken by an accused individual or allied third party that harms a complainant, witness, reporter or any other individual for filing or participating in a College investigation.
- ☐ **Grievance.** An issue of dispute that involves interpretation or application of an existing College policy.
- ☐ **Mandatory Reporter.** All faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare are required to report acts of discrimination, discriminatory harassment, sexual harassment, sexual violence,, and crimes, and concerning and/or disruptive student behaviors. All additional staff and students are strongly encouraged to report concerning behaviors, discrimination, discriminatory harassment, sexual harassment, sexual violence, and crimes.
- ☐ **Interim measures.** The College will take immediate steps to protect the complainant and to ensure the safety and well-being of the complainant and the College community.

## PROCEDURES

### a. General:

- i. **Inquiries.** For the purpose of obtaining information about reporting any instance of sexual violence, harassment and/or discrimination, any individual may consult with the Dean of Enrollment.
- ii. **Education.** The College will broadly disseminate this policy and distribute a list of resources available to respond to grievances, as well as concerns of sexual violence and harassment and/or discrimination based on race, color, religion, sex, marital status, national origin, age, disability, citizenship, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes.
- iii. **Annual Report.** The Dean of Enrollment shall maintain an annual report documenting the number of complaints received pursuant to this policy, the categories of those involved in the allegations, the number of violations found, and examples of sanctions/corrective actions imposed for policy violations.
- iv. **Administrative Review:** In the absence of a formal complaint, the Office of Enrollment has the authority to initiate an administrative review at the request of a department, division, program, or area when in the requested by a manager, supervisor, director, department chair, dean, or when in the judgment of the Office of Enrollment a review is necessary. As necessary the College reserves the right to serve as complainant and to initiate an investigation without a formal complaint.
- v. **Resolution Options Outside of the College.** The College encourages any member of the College community who feels he or she has been subjected to sexual violence, harassment or discrimination to use the complaint procedure outlined in this policy. Additionally, an individual has the right to file a complaint with outside enforcement agencies:

### a. Filing a Complaint with an Outside Agency.

- vi. **Retention of Records.** All records of grievance, sexual violence, harassment, discrimination, and discriminatory retaliation reports and investigations will be private and confidential to the greatest extent possible and will not be publicly disclosed except to the extent required by law. However, no member of the College's staff or faculty, or any student is promised strict or absolute confidentiality. Additionally, all records will be retained for a minimum of seven years. When the respondent is a student, records will be retained according to the Student Handbook.
- vii. **Protective measures.** The College will take immediate steps to protect the complainant and to ensure the safety and well-being of the complainant and the campus community. Interim measures depend largely on the incident at issue and are determined by the College on a case by case basis. The intent is to minimize the burden on the complainant.
- viii. **Anti-retaliation.** The College expressly prohibits any form of retaliatory action against any individual for filing a bona fide complaint under this Policy or for assisting in a complaint investigation.

**False Information.** Anyone interviewed as part of an investigation into a possible violation of this policy who intentionally furnishing false information may be subjected to corrective/disciplinary action.

ix. **False Reporting.** The College encourages anyone who believes that s/he has been the victim of sexual violence, harassment or discrimination to report her/his concerns but will not tolerate intentional false reporting of incidents.

x. **Incapacitation Due to Alcohol and Drug Use.** Incapacitated persons, whether male or female, as a result of alcohol or other drug consumption (voluntary and/or involuntary), or who are unconscious, unaware, asleep or otherwise physically helpless, are considered incapable of giving effective consent because they lack the ability to appreciate the fact that the situation is sexual, and/or cannot rationally and reasonably appreciate the nature and extent (who, what, when, where, why and how) of that situation.

xi. **Complaint Resolution.** The investigation of any complaint of sexual violence, harassment, discrimination or grievance will determine if this Policy was violated. Additionally, the investigative report may address other serious issues disclosed during the course of the investigation and make recommendations to the appropriate College department or official for resolution.

xii. **Conflict of Interest.** In the formal resolution process, if a member of the investigative team or the appropriate College authority has an actual or perceived conflict of interest, the investigator or appropriate College authority may be asked to excuse himself/herself from the process. The excused individual shall not have access to any of the materials for the case from which the individual is excused.

**Change in Status.** A change in employment or student status of either party involved in a formal investigation does not suspend, terminate or otherwise affect the College's responsibility to investigate and determine if this Policy was violated.

**b. Informal Resolution:** An option available to students, faculty and staff is to seek resolution informally. The College does not require an individual to contact the person directly whose behavior is unwelcome. Mandatory reporters should always contact The Office of Enrollment prior to any attempt to resolve a complaint.

i. One-on-One Communication:

a. If an individual seeking an informal resolution is comfortable dealing with the situation without direct involvement of a third party, the individual seeking an informal resolution can communicate directly with the person whose behavior is unwelcome.

b. It is appropriate to use face-to-face communication only when the individual seeking an informal resolution does not feel threatened, there is no risk of physical harm and the individual seeking an informal resolution believe the other person will be receptive.

c. Email/written correspondence is the preferred method of communication. If the individual seeking an informal resolution chooses to communicate face-to-face, s/he should also send an email summarizing the face-to-face interaction. Keep copies of any written communication.

d. One-on-One Communication should include:

1. A factual description of the incident(s) including a description of the unwelcome behavior, date, time, place, and the names of any witnesses.

2. A description of any consequences that the individual seeking an informal resolution has experienced due to the unwelcome behavior.

3. A request for the unwelcome behavior to cease.

4. If the individual seeking an informal resolution does not feel comfortable with the one-on-one communication or if the individual seeking an informal resolution believes that the communication was not successful, the individual should consider other informal or formal procedures.

ii. Third Party Assistance. If an individual seeking an informal resolution desires the assistance of a third party to attempt to resolve the situation informally, the individual seeking an informal resolution may approach any one of the following resources:

a. The Office of Enrollment

b. The Dean of Students (student)

c. Human Resources (faculty and staff)

d. The individual seeking an informal resolution's supervisor or the supervisor's supervisor (faculty, staff & student employees)

All faculty, staff and students are strongly encouraged to report any actions or behaviors believed to be in violation of this policy. Allegations of sexual violence, harassment and discrimination that come to the attention of faculty and staff with supervisory or leadership responsibilities or responsibilities related to student welfare must be reported. If the situation is not able to be resolved informally or if the individual seeking an informal resolution chooses not to engage in an informal resolution, the individual seeking an informal resolution may initiate a formal complaint using the procedures below.

**c. Formal Resolution:**

In all cases of an allegation of sexual violence, harassment, discrimination, and/or grievance, the individual(s) making such allegation may choose to bypass the informal resolution options and to proceed to a formal resolution. In the event that an informal resolution of the allegation of sexual violence, harassment, discrimination, and/or grievance is not resolved to the satisfaction of the individual(s) making the allegation, the person(s) alleging such sexual violence, harassment, discrimination, and/or grievance may submit a formal written complaint to The Office of Enrollment.

- i. The written complaint shall set forth in reasonably sufficient detail the nature of the alleged sexual violence, harassment and/or discrimination, the individual(s) against whom the complaint is made, the name(s) of any witnesses, and any available evidence or sources of evidence. See Sexual Violence, Harassment, Discrimination and Grievance Complaint Form.
- ii. Upon receipt of a written complaint, The Office of Enrollment shall first determine if the complaint states facts sufficient to believe that a potential violation of the Sexual Violence, Harassment, Discrimination and Grievance Policy or a potential violation of federal and/or state laws has occurred. The Office of Enrollment will notify the complainant in writing of its decision within five working days.
- iii. If there is the potential of a violation of the Sexual Violence, Harassment, Discrimination and Grievance Policy or federal and state laws, The Office of Enrollment will assign an investigation team from its pool of trained investigators to conduct a prompt, thorough, and impartial investigation.
- iv. The investigation team will objectively gather and consider relevant facts. The investigation team will ensure that statements of the complainant, the respondent, and all witnesses are documented and that the investigation is conducted in a thorough, objective manner and is considerate of all of the parties involved.
- v. Upon assignment to an investigation team, the investigation will normally be concluded within 30 working days. The complainant and respondent will be notified in writing of any reasonable delays.
- vi. The investigation will be private and confidential to the greatest extent possible. However, no member of the College's staff or faculty, or any student is promised strict or absolute confidentiality. The investigation team will submit a written investigative report, including the findings of the investigation and a recommendation for action, based on a preponderance of evidence, to the Dean of Enrollment. In consultation with the appropriate College authority, the Dean of Enrollment will make a decision on the action, if any, to be taken.
  - a. The appropriate College authority in matters involving complaints where the respondent is a student is the Dean of Students.
  - b. The appropriate College authority in matters involving complaints where the respondent is a member of the faculty reporting to him/her is the Dean of Academic Affairs.
  - c. The appropriate College authority in matters involving complaints where the respondent is a member of the staff is the Dean of Administration and Finance.
  - d. Additionally, the Dean of Enrollment may also consult other College officials in order to make a determination.
- viii. In all cases of formal allegations of harassment, discrimination and/or grievance, a summary of the findings and recommendations shall be available for review by the complainant, the respondent, and to the appropriate College authority.
- ix. The Dean of Enrollment will accept or reject the findings and/or recommendations of the investigative report using a preponderance of evidence standard.

x. The Dean of Enrollment will communicate the decision to the complainant, to the respondent, and to the appropriate College authority within five (5) working days. The College will take immediate and corrective action if appropriate.

#### **d. Appeal**

i. The complainant or respondent may appeal the decision made by the Dean of Enrollment for one or more of the following grounds:

- a. The decision made is arbitrary or capricious,
- b. If the decision is clearly unsubstantiated by the evidence, or
- c. If new information is presented that was not available during the course of the investigation.

ii. The written appeal must be filed within five working days after receiving the written decision with one of the following College authorities:

- a. The Dean of Academic Affairs will review all appeals involving complaints where the respondent is a student or a faculty member.
- b. The Dean of Administration and Finance will review all appeals involving complaints where the respondent is a staff member.

iii. The final determination will be made by the Dean of Academic Affairs or the Dean of Administration and Finance, using a preponderance of evidence standard within five(5) working days upon receiving the written appeal.

iv. The decision will be communicated to the complainant, respondent, and the Dean of Enrollment and shall be considered final.

e. Additionally, individuals may file a civil law suit against the offending party.

## **External Resources**

Individuals who believe they have been subjected to discrimination and harassment may also contact the following resources outside of the College.

Employees and students may bring complaints to:

Massachusetts Department of Higher Education  
<http://www.mass.edu/forstudents/complaints/complaintprocess.asp>  
One Ashburton Place, Room 601  
Boston, MA 02108  
617.994.6000

United States Equal Employment Opportunity Commission (EEOC)  
John F. Kennedy Federal Building  
Government Center Room 475  
Boston, MA 02203-0506  
800.669.4000  
[www.eeoc.gov/field/boston/](http://www.eeoc.gov/field/boston/)

Students may also bring complaints to:

Office for Civil Rights (OCR)  
United States Department of Education  
8th Floor  
5 Post Office Square  
Boston, MA 02109-3921  
617.289.0111  
OCR.Boston@ed.gov