



BROOKLYN LAW SCHOOL POLICY ON NON-DISCRIMINATION AND HARASSMENT

Issuing Authority: The President and Dean of Brooklyn Law School

Responsible Officers: Office of the Title IX Coordinator, Discrimination Specialist, and Accommodation Coordinator, and Office of the General Counsel and Chief Compliance Officer

Date Issued: February 4, 2015

Latest Revision: November 7, 2018

I. THE PURPOSE OF THIS POLICY

Brooklyn Law School is committed to the principles of equal opportunity and non-discrimination in the education and employment of qualified persons. It prohibits discrimination and all forms of harassment based on race, gender and/or gender identity or expression, sexual orientation, color, creed, religion, age, national origin, ethnicity, disability, veteran or military status, sex, marital status, citizenship status, criminal record or any other legally protected status in admissions, hiring, firing, workplace terms and conditions, classroom settings, student and faculty housing, study-abroad programs, and Law School-sponsored events. Such behavior is unlawful and will not be tolerated.

II. TO WHOM THIS POLICY APPLIES

This policy applies to and protects all members of the Brooklyn Law School community, including students, staff, faculty, Law School facility residents, vendors, and visitors.

III. DEFINITION OF PROHIBITED DISCRIMINATION AND HARASSMENT

- A. Discrimination is defined as adverse treatment based on race, gender and/or gender identity or expression, sexual orientation, color, creed, religion, age, national origin, ethnicity, disability, veteran or military status, sex, marital status, citizenship status, criminal record or any other legally protected status.
- B. Harassment is defined as a discriminatory form of conduct that is sufficiently pervasive or persistent to:
 - (a) interfere with or limit the ability of an individual to work for, participate in, or benefit from the Law School's programs or activities;
 - (b) create an intimidating, hostile or offensive work, academic or residential environment; or
 - (c) otherwise affect employment or academic opportunities.Harassment can occur when:

- (1) submission to the conduct is either an explicit or implicit term or condition of employment, the basis for admission to or participation or advancement in an academic program, or the basis for participation in a Law School activity, program, or benefit;
- (2) the conduct creates an intimidating, hostile or offensive work, academic or residential environment;
- (3) submission to or the rejection of the conduct is used as the basis of an employment or academic decision; or
- (4) the conduct otherwise adversely affects employment or academic standing and opportunities.

Examples of discriminatory and harassing behavior include, but are not limited to:

- Verbal abuse or hostile behavior such as insulting, teasing, mocking, degrading or ridiculing another person or group;
- Unwelcome or inappropriate physical contact, comments, questions, advances, jokes, epithets or demands;
- Physical assault or stalking;
- Destruction of property;
- Displays or electronic transmission of derogatory, demeaning or hostile materials; and
- Unwillingness to train, evaluate, assist, or work with an employee, faculty member, or student.

Behavior that is not sufficiently severe or pervasive to constitute a violation of law may still violate this policy.

IV. SEXUAL MISCONDUCT AND COORDINATION WITH THIS POLICY

Brooklyn Law School has a comprehensive Sexual Misconduct Policy that addresses all forms of sexual misconduct, including sexual harassment. It is important to coordinate this policy with the Sexual Misconduct Policy because sexual misconduct can occur in conjunction with discrimination or harassment based on another protected status, such as race or age. Sexual misconduct complaints will be investigated in accordance with the protocol set forth in this policy so that there is consistency and coordination.

V. REPORTING INCIDENTS OF DISCRIMINATION OR HARASSMENT

A. Responsibility to Report

All members of the Law School community have a responsibility to report incidents of discrimination and harassment to the Title IX Coordinator and Discrimination Specialist. The President and Dean, Vice, Associate, and Assistant Deans, department heads, faculty members, directors, and supervisors are required to report all incidents of discrimination and harassment to the Title IX Coordinator and Discrimination Specialist:

**Louise Cohen, Title IX Coordinator, Discrimination Specialist,
and Accommodations Coordinator**
250 Joralemon Street, Room 930
Brooklyn, NY 11201
(718) 780-0377
louise.cohen@brooklaw.edu

B. Reporting Incidents

All individuals who believe they have been subjected to, witnessed, or have knowledge of incidents of discrimination or harassment as defined in this policy, should report the behavior or acts to the Title IX Coordinator/Discrimination Specialist. Verbal complaints will be accepted, although it is preferable to have the complaint reduced to writing by either the complainant or the individual who receives the complaint in order to preserve an accurate record. The written complaint should identify the parties involved; describe the discriminatory or harassing behavior; state when and where it occurred; and identify by name or description any witnesses to the alleged behavior. All complaints should be reported promptly so that appropriate action may be taken in a timely manner. However, the late reporting of complaints will not prevent the commencement of an investigation or taking appropriate remedial action.

The Law School will investigate any conduct that may be in violation of this policy regardless of whether a complaint is filed. It will pursue disciplinary action under the applicable disciplinary procedures, if warranted, and take any other appropriate action that is deemed necessary.

VI. CONFIDENTIALITY

Generally, the Law School will maintain the confidentiality of the complaint to the greatest extent consistent with the goal of conducting a thorough and complete investigation. It will make every effort to safeguard the privacy and rights of all persons involved. If a complaint involves sexual misconduct and the complainant requests that his or her name not be disclosed or that the Law School not investigate or take action, the Title IX Coordinator will determine whether such a request can be honored while providing a safe and nondiscriminatory environment for the complainant and all students,

faculty, and staff. Please refer to the *Brooklyn Law School Sexual Misconduct Policy* for greater details regarding the confidentiality of sexual misconduct complaints.

VII. INVESTIGATION AND DISPOSITION OF THE COMPLAINT

A. The Investigator

Investigations are generally conducted by the Title IX Coordinator and Discrimination Specialist.

B. Notification of an Investigation

The investigator will notify the complainant and respondent that a prompt, thorough and impartial investigation of an alleged violation of this policy has commenced. Simultaneous notification shall be made: (1) either by personal delivery, overnight mail with signature, or by certified mail with return receipt to the address in the Law School's records; *and* (2) by email to the complainant and respondent's Law School email accounts.

The Notice shall contain: (1) the date, approximate time, and location of the alleged policy violation; (2) a description of the factual allegations; and (3) a summary of potential sanctions associated with the alleged violation.

C. Evidence Gathering

The investigator will interview the parties to the complaint, as well as any witnesses who have been identified. The investigator will ask the parties and witnesses for any documentary, electronic, or other evidence related to the complaint that they may want to offer. The investigator may also independently gather available evidence as part of the investigation. For complaints filed under this policy that also involve sexual misconduct under the Law School's Sexual Misconduct Policy, prior sexual history with persons other than the charged party in a disciplinary proceeding is not considered evidence and will be excluded. Please refer to the Sexual Misconduct Policy for further information on the evidence gathering.

All individuals interviewed shall be advised to maintain the confidentiality of the investigation process and not to disclose any information related to the complaint, unless necessary during the complaint process. Maintaining confidentiality is important to preserve the integrity of the investigation, protect student and witness privacy, and deter retaliation.

The investigation process is an internal procedure, so the presence of legal counsel or third-parties is not permitted at any stage of the investigatory process unless otherwise required by law, such as in the case of sexual misconduct.

D. The Standard Applied to Investigations

The investigator shall determine whether a violation of this policy occurred under the *preponderance of the evidence* standard. Under this standard, it must be more likely than not that a violation of the policy occurred.

E. Interim Measures

The Law School may take appropriate interim measures during the pendency of the investigation as necessary. Such measures may include separation or “no contact” orders, housing assignments and work reassignments, academic or work schedule modifications, and counseling for emotional support.

F. The Disposition of the Complaint

If it is determined that a violation of this policy has occurred, prompt remedial action shall be taken. If such action involves the imposition of sanctions, the matter shall be referred to the appropriate disciplinary process.¹ Whether or not it is determined that a violation has occurred, the disposition of the complaint shall be communicated to the complainant and respondent: (1) either by personal delivery, overnight mail with signature, or by certified mail with return receipt to the address maintained in the Law School’s records; *and* (2) by email to the complainant’s and respondent’s Law School email account.

If the results of an investigation show that the complainant knowingly filed false accusations under this policy, or that a witness gave false statements, such individuals will be referred to the appropriate disciplinary process for prompt action.

G. Time Frame

In general, the investigation, disciplinary process and appeal, if any, will not exceed sixty (60) days, although the Law School reserves the right to exceed this time frame, with notice to the parties, in order to conduct a thorough investigation.

H. Appeals

Appeals shall be pursued through the appeal process set forth in the appropriate disciplinary procedures used to pursue sanctions.

¹ For students, consult Student Disciplinary Procedures located in the Student Handbook. For faculty, consult the Faculty Regulations, and for staff, the progressive discipline process is applied.

VIII. RETALIATION

Retaliation is any action that could discourage an individual from reporting, filing, or supporting a complaint. Retaliation is unlawful and prohibited by this Policy. Therefore, the Law School will take every step necessary to protect the parties and any witnesses against retaliation for filing a complaint under this Policy or for participating in the investigation of a complaint.

If you believe that you are the subject of retaliation in violation of this Policy because of making a report or a complaint or assisting in an investigation, you must contact the investigator promptly for action.

Disciplinary action will be pursued against any employee, faculty member, or student who retaliates against any individual who complains of, witnesses, or participates in the investigation of sexual misconduct.

IX. RECORD KEEPING

All documentation, whether in paper, electronic, or in other forms of media, relating to complaints filed under this policy, shall be retained for six (6) years (plus the current year) after the employee or student separates from the Law School. Such records shall be maintained in a secure and confidential manner and separate from an employee's and student's files, except that the results of all disciplines shall become a permanent part of the respondent employee's personnel file and part of the respondent student's educational record.

All documents that must be preserved for litigation purposes are exempt from the retention period and must be retained until further notice.

Such documentation is not available to the public pursuant to the Law School's policy and may only be disclosed as compelled by a court, government agency, or as otherwise permitted by the applicable privacy laws. For information on student privacy rights under the Family Educational Rights and Privacy Act of 1974 ("FERPA") (20 U.S.C. § 1232g; 34 CFR Part 99), please refer to the Brooklyn Law School Policy Page at www.brooklaw.edu/policies; or the BLS Connect Policy Page at <https://blsconnect.brooklaw.edu/administrative/policies/Pages>.

Student and employee complainants may request that directory information on file be removed from the Law School's public sources by contacting the following individuals:

For Students - Christian Bester, Registrar and FERPA Officer at Brooklyn Law School, 111 Livingston Street, 21st Floor, Brooklyn, New York 11201 chris.bester@brooklaw.edu.

For Employees - Matthew Burns, Director of Human Resources at Brooklyn Law School, 111 Livingston Street, 21st Floor Brooklyn, New York 11201 matthew.burns@brooklaw.edu.

X. DISCLAIMER

This policy does not form an agreement of any kind and may be altered, modified, or rescinded at the discretion of Brooklyn Law School.

