



BROOKLYN LAW SCHOOL
POLICY ON NON-DISCRIMINATION AND HARASSMENT

Issuing Authority: The President and Dean of Brooklyn Law School

Responsible Officers: The Director of Equal Opportunity and Title IX Coordinator, the Office of Human Resources, the Director of Campus Safety and the Office of the General Counsel

Date Issued: February 4, 2015, revised July 31, 2024

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. The Law School prohibits discrimination and all forms of harassment based on age, race, color, religion, creed, national origin, ancestry, ethnicity, sex including pregnancy or related conditions, sex stereotypes, gender, gender identity or expression, including status as a transgender individual, physical or mental disability including gender dysphoria and similar gender-related conditions, height, weight, citizenship or immigration status, military status, including past, current, or prospective service in the uniformed services, genetic information, predisposing genetic characteristics, marital status, domestic violence victim status, familial status, actual or perceived sexual orientation, unemployment status, caregiver status, partnership status, credit history, 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. DISCRIMINATION AND HARASSMENT PROHIBITED BY THIS POLICY

- A. Discrimination is defined as adverse treatment based on any of the protected classes listed above, or any other legally protected status.
- B. Harassment is defined as a discriminatory form of unwelcome conduct that: (a) interferes with or limits the ability of an individual to work for, participate in, or benefit from the Law School's programs or activities; (b) creates an intimidating, hostile or

offensive work, academic or residential environment; or (c) otherwise affects employment or academic opportunities.

(1) Harassment can occur when:

- (a) 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;
- (b) the conduct creates an intimidating, hostile or offensive work, academic, or residential environment;
- (c) submission to or the rejection of the conduct is used as the basis of an employment or academic decision; or
- (d) the conduct otherwise adversely affects employment or academic standing and opportunities.

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

- a) Verbal abuse or hostile behavior such as insulting, teasing, mocking, degrading or ridiculing another person or group, including using code words or images;
- b) Unwelcome or unwanted physical contact, comments, questions, advances, jokes, epithets or demands;
- c) Physical assault or stalking;
- d) Destruction or defacement of property;
- e) Displays or electronic transmission of derogatory, demeaning, or hostile materials;
- f) Displays or electronic transmission of materials saying that certain groups are unwelcome, such as “No Zionists allowed” or “Ban Intifada supporters from campus” and
- g) 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.

Any hate or bias crime as defined in federal, state or local law also violates this policy.

IV. DEFINITIONS

- A. **Admission** means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment membership, or matriculation in or at an Educational Program or Activity opened by Brooklyn Law School
- B. **Complainant** means a student or employee who is alleged to have been subjected to conduct that would constitute discrimination or harassment as defined in this Policy
- C. **Complaint** means an oral or written request that Brooklyn Law School investigate and make a determination about alleged discrimination or harassment in violation of this Policy
- D. **Disciplinary Sanctions** means consequences imposed on a Respondent following the determination that the Respondent has violated this Policy
- E. **Education Program or Activity** means all of the operations of Brooklyn Law School
- F. **Party** means Complainant or Respondent
- G. **Pregnancy or related conditions** means (1) pregnancy, childbirth, termination of pregnancy, or lactation, (2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation, or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- H. **Respondent** means a person who is alleged to have violated this Policy.
- I. **Retaliation** means intimidation, threats, coercion, or discrimination against a any person for the purpose of interfering with their rights under this Policy or because the person has reported information, made a Complaint, testified, assisted or participated or refused to participate in any manner in an investigation or informal resolution process pursuant to this Policy.
- J. **Student** means a person who has gained admission to Brooklyn Law School.

V. JURISDICTION

This Policy applies to all discrimination and harassment occurring in the workplace and in the Law School's educational programs or activities. It applies to all settings, programs, and activities sponsored by the Law School, whether on or off campus, or in connection with a study abroad program. This Policy also applies to conduct that contributes to a hostile work or educational environment as defined by this policy, even when some of the conduct alleged to contribute to the hostile environment occurs outside the program or activity or outside the United States.

VI. SEX BASED HARASSMENT INVOLVING STUDENTS AND COORDINATION WITH THIS POLICY

Brooklyn Law School has a comprehensive Policy Prohibiting Sex-Based Harassment that

addresses sexual assault, dating violence, domestic violence, stalking and sexual harassment involving students.¹ Complaints under that policy will be investigated in accordance with the protocol set forth therein.

The procedure set forth in this Policy applies to incidents of gender-based discrimination that do not constitute sex-based harassment under that Policy and which occur on or after August 1, 2024. Any incidents of gender-based harassment reported under this Policy that occurred on or before July 31, 2024, will be processed through the institution's Sexual Misconduct Policy.²

VII. REPORTING INCIDENTS OF DISCRIMINATION OR HARASSMENT

A. Responsibility to Report

All members of the Law School community are required to report incidents of discrimination and harassment.

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 through the online reporting system, available [here](#).³

The written report 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 incidents should be reported promptly so that appropriate action may be taken in a timely manner. However, the late reporting of an incident will not prevent the commencement of an investigation or taking appropriate remedial action. Verbal reports to the Director of Equal Opportunity and Title IX Coordinator, the Director of Campus Safety, or the Director of Human Resources will also be accepted, but a written report via the online reporting system is preferable to preserve an accurate record.

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.

¹ Brooklyn Law School also has a Sexual Misconduct Policy which predated the policy on sex based harassment and prohibited such behavior on or before August 1, 2024.

² Should any portion of the 2024 Title IX Final Rule be stayed or held invalid by a court of law, the impacted portions of this Policy shall be revoked as of the publication date of the opinion or order from the Court.

³ The online reporting system can be accessed at (<https://blsconnect.brooklaw.edu/groups/collaborate/campus-safety/Pages/incident-reports.aspx>).

VIII. PRELIMINARY REVIEW

Individuals who believe they have experienced discrimination, harassment, or retaliation in violation of the Policy shall promptly report such an incident through the online reporting system or by notifying the Director of Equal Opportunity and Title IX Coordinator, the Director of Campus Safety, or the Director of Human Resources. The Director of Equal Opportunity and Title IX Coordinator or the Director of Human Resources will review the policy with the individual and explain the options available, which include informal resolution of the issues raised or a formal complaint. Depending on the nature of the concerns raised, the individual may also be referred to an alternative Law School office or department for resolution of the matter.

IX. FILING OF A COMPLAINT

Following the preliminary review, individuals who wish to pursue a complaint of discrimination or retaliation will be provided with a copy of the Law School's Complaint Form.⁴ Complaints should be made in writing whenever possible, including in cases where the Complainant seeks an informal resolution.

Brooklyn Law School may consolidate Complaints against more than one Respondent or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations arise out of the same facts or circumstances.

X. INFORMAL RESOLUTION

Individuals who believe they have been discriminated or retaliated against may choose to resolve their complaints informally. The purpose of an informal resolution is to allow the parties involved an opportunity to reach a fair and workable solution. Parties who participate may agree upon a variety of resolutions including, but not limited to participation in training, workplace modifications, a written apology, or some other form of resolution.

Parties may negotiate an informal resolution before or after an investigation has commenced. Informal resolutions are subject to the approval of the Dean of Students (for complaints involving students) or the Director of Human Resources (for complaints involving employees) who, in consultation with the Office of General Counsel and Compliance, will consider the nature of the complaint in determining whether the proposed resolution is appropriate.

Informal resolutions require the consent of all parties and negotiation of such resolutions suspends the complaint process. Informal resolutions should be memorialized in writing and signed by the parties. If the parties are unable to reach an informal resolution, the Complainant may request that the Law School commence or continue investigation of the complaint.

XI. INVESTIGATION AND DISPOSITION OF THE COMPLAINT

Brooklyn Law School will provide for adequate, reliable, and impartial investigation of Complaints. The burden is on the Law School, and not the parties, to conduct an investigation that gathers sufficient evidence to determine whether discrimination or harassment has occurred.

⁴ A copy of the Complaint Form is available here as [Appendix A](#).

A. The Investigator

Investigations are conducted by the Director of Equal Opportunity and Title IX Coordinator, the Director of Human Resources, or the Director of Campus Safety, unless there is a conflict, in which case other arrangements will be made.

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 by email to the complainant and respondent's Law School email accounts. If a complainant or respondent does not have a Law School email account, notification shall be made either by personal delivery, overnight mail with signature, or known email address, and shall include a copy of this policy.

The Notice shall contain: (1) the date, approximate time, and location of the alleged policy violation; (2) a description of the factual allegations; (3) a summary of potential sanctions associated with the alleged violation; (4) a statement prohibiting retaliation; and (5) a statement explaining that Parties are entitled to an equal opportunity to access the relevant evidence or an accurate description thereof, so long as the evidence is not impermissible

If, during an investigation, Brooklyn Law School decides to investigate additional allegations of discrimination or harassment by the Respondent towards the Complainant, the Law School will notify the parties of the additional allegations in a subsequent notice.

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.

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.

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. Equitable Treatment

Brooklyn Law School will treat Complainants and Respondents equitably.

F. Conflicts and Bias

Brooklyn Law School prohibits any individual with a conflict of interest or bias for or against a Complainant or Respondent from serving as an investigator or decisionmaker under this Policy.

G. Presumption

Brooklyn Law School presumes that the Respondent is not responsible for the alleged discrimination or harassment until a determination is made at the conclusion of the investigation.

H. Objectivity

The investigator will objectively evaluate all evidence that is relevant⁵ and not otherwise impermissible⁶ including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

I. 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. Interim measures are not disciplinary and shall not unreasonably burden Complainant or the Respondent. The purpose of the interim measures is to restore or preserve a Party's access to Brooklyn Law School's educational program or activity or workplace and provide support during an investigation or the informal resolution of a complaint.

J. Disability Accommodations

Parties may request reasonable disability accommodations from the investigator at any point to allow them to participate in the investigation. Accommodations may not fundamentally alter the investigation. Those who receive accommodations related to their work or education at the Law School will not automatically receive them in connection with the investigation; they must request them from the investigator.

⁵ Evidence is relevant when it may aid a decisionmaker in determining whether the alleged conduct occurred.

⁶ Evidence is impermissible when it is protected by a legal privilege that has not been waived; or, in cases of sex discrimination, it relates to complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct.

K. Emergency Removal

Brooklyn Law School retains the authority to remove a Respondent from its Education Program or Activity on an emergency basis, where it (1) undertakes an individualized safety and risk analysis and (2) determines that an imminent and serious threat to health or safety justifies removal.

In such cases, Brooklyn Law School will provide the Respondent with notice and an opportunity to challenge the decision through a written petition immediately following the removal. The Director of Campus Safety will determine whether the emergency removal should remain in place unless the Director of Campus Safety serves as investigator. In such cases, the decision-making authority will be delegated to an appropriate designee.

L. Administrative Leave

Brooklyn Law School retains the authority to place a non-student employee Respondent on administrative leave during the investigation.⁷

M. Investigation Report

The Investigator will draft an Investigation Report that fairly summarizes relevant evidence and reaches a disposition as to the allegations raised in the complaint. The investigator will exclude from the report any evidence that is protected under a privilege covered by Federal or State law and any records maintained by a physician or mental health professional absent written voluntary consent for its use.

N. The Disposition of the Complaint

Whether or not it is determined that a violation has occurred, the disposition of the complaint, and the rationale for the disposition, shall be communicated to the Complainant and Respondent in the same manner as notification above, except that individuals without a Law School email address will be provided a copy of the operative disciplinary procedures.

1. Violation of Policy

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 for adjudication, and a copy of the Investigation Report will be provided to both parties as required by the applicable adjudication process.⁸

⁷ When a Complainant or a Respondent is both a student and an employee, Brooklyn Law School will determine the Complainant or Respondents' primary relationship with the Law School using a fact-specific analysis (i.e., did the incident arise in an employment context, is the individual a full-time student, etc.)

⁸ Policy violations by students will be addressed through the Student Disciplinary Procedures; violations by faculty will be addressed under the Faculty Regulations, and violations by staff will be addressed in accord with the Employee Handbook. These materials are available in the Policy Library on BLS Connect.

2. Dismissal of Complaint

The Law School may dismiss a Complaint for any of the following reasons:

- a. It is unable to identify the Respondent after taking reasonable steps to do so;
- b. The Respondent is not an employee or is not participating in an Educational Program or Activity;
- c. The Complainant voluntarily withdraws any or all of the allegations in the Complaint and the Law School determines that without the withdrawn allegations the conduct would not constitute a violation of the Policy;
- d. The Law School determines that the conduct alleged in the Complaint, even if proven, would not constitute a violation of the Policy.

Upon dismissal, the Law School will notify the Complainant of the basis for the dismissal and the opportunity to appeal. If the dismissal occurs after the Respondent has been notified of the allegations, then the Law School will also notify the Respondent of the dismissal, its basis, and the opportunity to appeal.

Dismissals may be appealed on the following grounds:

- a. New evidence that would change the outcome and was not reasonably available with the dismissal was made;
- b. Procedural irregularity that would change the outcome;
- c. The investigator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent at issue that would change the outcome of the matter.

Appeals will be decided by a panel of three faculty members, as appointed by the Dean and President with the assistance of the Vice Dean.

3. False Accusations

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

O. Time Frame

Brooklyn Law School has established a time frame of sixty business (60) days for the investigation as outlined in this Policy. Likewise, the disciplinary process, and appeal, if any, will generally not exceed sixty business (60) days, although the Law School reserves the right to exceed these time frames on a case-by-case basis for good cause and with notice to the Parties setting forth the reasons for the delay.

P. Appeals

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

XII. RETALIATION

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 for 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 is found to have retaliated against any individual who complains of, witnesses, or participates in the investigation.

XIII. 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. These safeguards will not restrict the ability of the Parties to obtain and present evidence at a disciplinary hearing, consult with their advisors, or otherwise prepare to participate in a disciplinary hearing.

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 Director of Equal Opportunity/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.

XIV. EMPLOYEE TRAINING

All employees are required to complete annual non-discrimination and diversity training, which is delivered online. If an employee is sued for discrimination or harassment arising in the workplace, and the employee has failed to complete the required training, the Law School may refuse to indemnify and defend the employee. The employee would then be solely responsible for the costs and fees associated with their defense and any loss arising from a settlement or an adverse judgement.

XV. 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 seven (7) years 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.

Such documentation is not available to the public and may only be disclosed as compelled by a court, government agency, or as otherwise permitted by Law School policy and applicable privacy law.

XVI. 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.

Appendix A

BROOKLYN LAW SCHOOL
DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT
COMPLAINT FORM

If you believe that you have been subjected to sexual misconduct (which includes sexual harassment) or any form of discrimination, please complete this form and submit it to either:

- Campus Safety: campussafety@brooklaw.edu
- Office of Equal Opportunity and Title IX: TitleIX@brooklaw.edu
- Office of Human Resources: HumanResources@brooklaw.edu

If you are more comfortable speaking to someone about your concerns instead of submitting them in writing, please contact one of the offices listed above to set up a time to discuss your concerns.

CONTACT INFORMATION OF REPORTER

Name:

Address:

Phone:

Email:

Select Preferred Communication Method: Email Phone In person

STATUS (Please Select One)

Student J.D. Program: Three-Year Two-Year Four-Year

1st year 2nd Year 3rd Year 4th Year

Employee Title: _____

Department: _____ Work Phone: _____

Immediate Supervisor's Name: _____ Ext. _____

Faculty

DESCRIPTION OF INCIDENT

1. Your report of Sexual Misconduct and/or Discrimination pertains to:

Name: _____ Title: _____

Address (if known): _____

Work Phone (if known): _____

Email: _____

Relationship to you:

Supervisor Subordinate Co-Worker Student

Faculty Vendor Other

Please describe what happened and how it is affecting you and your work, academic studies, or participation in a Law School program. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

2. Date(s) alleged discrimination, harassment or sexual misconduct occurred:

Is the conduct continuing? Yes No

3. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

4. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

Signature: _____

Date: _____