

## **Academic retaliation policy**

### Policy

If a student is engaging in conduct protected by the HGSU-UAW bargaining agreement, or if they are participating in any investigation or proceeding arising under the agreement, it is unacceptable and prohibited to use an academic assessment or other academic actions as a means to retaliate against that student's protected conduct. Examples of such prohibited academic retaliation include basing a grade, academic credit, authorship, recommendation letter, denial of an academic opportunity, or other academic judgment on a student exercising a right under the HGSU-UAW bargaining agreement or on their participating in any investigation or proceeding arising under the agreement.

### Committee

The Edgerly Family Dean of the Faculty of Arts and Sciences will appoint an Academic Retaliation Appeals Committee (ARAC) of tenured faculty with one member from each Division and SEAS who will serve a 2-year term. The committee membership will be listed on [to be filled in] website where a contact email for the committee will be provided.

### Process<sup>1</sup>

A student worker has the right to a HGSU-UAW student representative or UAW representative at any and all steps of the handling of such matters. A student worker who believes that they have been the subject of a retaliatory academic action by a member of the FAS community for engaging in conduct protected by the HGSU-UAW bargaining agreement should initially discuss their concern with the Director of Graduate Studies (DGS), Director of Undergraduate Studies (DUS), or comparable director in units with no DGS or DUS in the department offering the course or program where the claim of retaliatory action occurred, hereafter known as the Reviewer. The student worker may also contact a current member of the Academic Retaliation Appeal Committee (ARAC) (LINK) who will bring the concern to the ARAC if they (the committee member) are unable to identify the appropriate person within the student worker's

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<sup>1</sup> The process outlined here applies only to allegations of academic retaliation that are not covered by the Interim Other Sexual Misconduct Policy, which contains an anti-retaliation provision that also applies to concerns falling under the Interim Title IX Sexual Harassment Policy. If a student believes they have been the subject of a retaliatory academic action for reporting or complaining of sexual harassment or other sexual misconduct, participating or refusing to participate in any proceeding regarding such a complaint, or opposing conduct the student believes violates the Interim Title IX Sexual Harassment Policy or the Interim Other Sexual Misconduct Policy, then the student should contact a Title IX Resource Coordinator to discuss options and procedures under the Interim Other Sexual Misconduct Policy. There may be other University policies, outside of the Interim Other Sexual Misconduct Policy, that also provide protection from retaliation. Students may elect to follow the process in those other policies, as appropriate, instead of the process set forth here. That choice is final, and there will not be duplicative reviews of the same complaint.

unit or if the student worker believes that there is a conflict of interest with the DUS or DGS. The ARAC member may, in consultation with the student worker, determine that they will serve as the Reviewer in this instance.

If the DUS or DGS believes they are unable to fulfill the duties of the reviewer they may ask ARAC to determine an appropriate Reviewer.

The Reviewer will first contact Harvard's Office of Labor and Employee Relations (OLER) to confirm that the processes described here are being followed correctly.

The Reviewer will ask the student to describe the alleged retaliation. The Reviewer will consult with a representative from OLER to determine if the student engaged in conduct protected from retaliation. If so, the Reviewer will engage with the student and relevant faculty member to resolve the matter informally. A matter will be deemed satisfactorily resolved when both parties expressly agree, in writing, to an outcome that is also acceptable to the Reviewer. Students who raise a concern under this policy may have a HGSU-UAW student representative or UAW representative as a personal advisor at any and all steps of the handling of this matter. The faculty member who took the academic action may have a personal advisor at any and all steps of the handling of this matter.

If the parties do not come to an informal resolution, the Reviewer will conduct a review, which will include, but is not limited to, the following steps:

- (1) Ask the faculty member who conducted the academic assessment to explain the basis for the academic assessment and if the academic assessment was made on the basis of the student's protected conduct.
- (2) If necessary, identify a faculty member with subject matter expertise and no involvement in the matter at issue. The subject matter expert may be someone from Harvard. They will review the student's work product and/or the academic action and advise the Reviewer whether the academic assessment or other academic action was reasonable. The Reviewer will make every effort possible to keep the identity of the faculty member with subject matter expertise confidential and will redact the name of the student and the name of the faculty member from the student's work product.
- (3) If the faculty member with subject expertise does not find that the academic assessment or other academic action was reasonable, they will review other recent academic assessments or other academic actions of comparable student work by the same faculty member. The Reviewer will redact the names of the students and the name of the faculty member from the students' work product.
- (4) Considering the information gathered by the faculty member with subject expertise, the faculty member's basis for the academic assessment or other academic action, and the student's description of the connection between their protected conduct and the retaliatory action, the Reviewer will issue a written determination as to whether the challenged action was retaliatory.

This will be provided to the student worker, faculty member, and the ARAC. If approved by the ARAC it will be forwarded to the divisional dean. Retaliation is established when there is a clear connection between the academic assessment or other academic action and the student's protected activity.<sup>2</sup>

(5) The student worker or the faculty member may, within 90 days, appeal or otherwise raise concerns with an initial decision by the University on the basis of a procedural irregularity that affected the outcome of the decision; new evidence that was not reasonably available at the time the determination was made and that could affect the outcome of the decision; or the reviewer had a conflict of interest or bias for or against the complainant or respondent that affected the outcome of the matter. In instances in which the reviewer is a member of ARAC, the reviewer will recuse themselves from ARAC for the appeals process. The student worker or the faculty member can submit an appeal of an initial decision in writing to the ARAC. ARAC will review all existing information and may conduct further inquiries or consult other subject matter experts as necessary. ARAC will issue a final written determination of the appeal to the student worker and the faculty member. The decision of the ARAC is final.

In the event of a finding of academic retaliation, the Reviewer or ARAC will forward their finding to the Edgerly Family Dean of the Faculty of Arts and Sciences or their designee, who will determine what action to take. The outcome of this process is final.

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<sup>2</sup> The Reviewer may refer to the EEOC's "[Enforcement Guidance on Retaliation and Related Issues](#)" for guidance, but is not bound to it.