

I. Introduction

In 2015, the Faculty of Arts and Sciences (FAS) developed the *FAS Policy on Sexual and Gender Based Harassment*. This new policy incorporated the University's *Sexual and Gender-Based Harassment Policy*, which reflected the federal regulations at that time and added elements specific to the learning, research, and work environment of the FAS. On August 14, 2020, the U.S. Department of Education (DoE) adopted new regulations for responding to campus-based sexual harassment, including sexual assault. In response to these new regulations, the University and the FAS introduced interim policies addressing Title IX sexual and gender-based harassment and other sexual misconduct.¹

In mid-September 2020, Claudine Gay, Edgerley Family Dean of the FAS, wrote to the FAS community about the new DoE regulations and Harvard's interim policies. As the FAS would next move to develop its final policies, she noted that this was "an opportunity to apply lessons we have learned over the past five years as we develop a new policy to fight against sexual and gender-based harassment and misconduct and to advance our School's fundamental commitments to equity and academic excellence." To this end, she formed the FAS Committee to Review Conduct Policies and Procedures (CRCPP) to review the "[**Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct**](#)" and to review FAS faculty professional conduct policies that fall beyond the scope of sexual and gender-based harassment.

CRCPP's work builds on the enormous amount of extraordinary work that has been done over the years by University and FAS offices and individuals dedicated to supporting our community on these issues. In particular, the University Title IX Office, the Office of Dispute Resolution (ODR), the FAS Program Officers for Title IX and Professional Conduct, the University Ombuds Office, the Office for Sexual Assault Prevention and Response (OSAPR), and countless others have devoted their energies to supporting, training, and educating all who are affected by these issues. While there is still much to be done, this is a moment of thanks to everyone who has worked so hard in these efforts.

Indeed, the CRCPP situates our work within a history of the Harvard community working to address sexual assault and harassment. In 2003, the report of the Committee to Address Sexual Assault at Harvard recommended the creation of an Office of Sexual Assault Prevention and Response to "coordinate and streamline prevention and support efforts within the College."² In 2014, a FAS committee revised the FAS sexual harassment policy to bring it in line with the University's new policy.³ That same year, initial recommendations of the university-wide Task Force on the Prevention of Sexual Assault included a new and comprehensive survey of students and additional resources for staffing OSAPR.⁴ In 2016, the final report of the Task Force

¹ The term "Sexual Misconduct," which is used in the University's "Interim Other Sexual Misconduct Policy," includes sexual misconduct that falls outside the jurisdiction of the new "Interim Title IX Sexual Harassment Policy" but that was prohibited under the previous "Sexual and Gender-Based Harassment Policy." In this report, "Sexual Misconduct" should be interpreted to mean all conduct covered by both interim policies.

² https://web.archive.org/web/20051221041425/http://www.fas.harvard.edu/~casah/files/CASAH_FinalReport.pdf

³ <https://news.harvard.edu/gazette/story/2014/08/fas-seeks-community-input/>

⁴ <https://news.harvard.edu/wp-content/uploads/2014/05/task-force-recommendations.pdf>

recommended mandatory annual training for all students, implementation plans at all of Harvard's schools, and additional resources for the bisexual, gay, lesbian, transgender, queer, and questioning (BGLTQ) community, especially at the graduate and professional schools.⁵ Recommendations in the 2021 Report of the External Review Committee to Review Sexual Harassment included: fostering a culture of psychological safety, ensuring more effective responses when misconduct is reported, improving transparency around investigations and sanctions, and encouraging reports of misconduct. The work of the CRCPP incorporates and highlights the external committee's final recommendation to embed "expectations of ethical and professional conduct more deeply" to foster "broader and more ambitious cultural change."⁶

This report describes the work and recommendations of CRCPP. We first describe, in Section II, CRCPP's membership, its charge in more depth, and its work process. We then discuss current FAS and University policies and the context of their implementation. In Section IV, we discuss key issues that arose during our feedback sessions with the FAS community, and Committee recommendations in response to this feedback. The report ends with appendices. Thus, this report is structured as follows:

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⁵https://sexualassaulttaskforce.harvard.edu/files/taskforce/files/final_report_of_the_task_force_on_the_prevention_of_sexual_assault_16_03_07.pdf?m=1457452164

⁶ https://provost.harvard.edu/files/provost/files/report_of_committee_to_president_bacow_january_2021.pdf

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II. Committee Work

A. Committee Membership

The FAS Committee to Review Conduct Policies and Procedures was chaired by Leah Somerville, Professor of Psychology, and Nina Zipser, Dean for Faculty Affairs and Planning. The committee included tenured faculty from the divisions of the Arts and Humanities, Social Science, and Science, and from the Harvard John A. Paulson School of Engineering and Applied Sciences (SEAS), students from the Graduate School of Arts and Sciences (GSAS), Harvard College students, and staff from the FAS and Division of Continuing Education (DCE). These members were:

- Daniel Arias, Graduate Student
- Seth Avakian, Program Officer for Title IX and Professional Conduct, GSAS and FAS Office for Faculty Affairs (OFA)
- Vanessa Braganza, Graduate Student
- Erin Clark, Program Officer for Title IX and Sexual Misconduct, Harvard College
- Thomas Cummins, Dumbarton Oaks Professor of Pre-Columbian and Colonial Art
- Scott Edwards, Professor of Organismic and Evolutionary Biology, Alexander Agassiz Professor of Zoology in the Museum of Comparative Zoology
- Jennifer Lewis, Hansjorg Wyss Professor of Biologically Inspired Engineering
- Marcyliena Morgan, Ernest E. Monrad Professor of the Social Sciences
- Masahiro Morii, Donner Professor of Science
- Robert Neugeboren, Dean of Students, Division of Continuing Education
- Eliza Oehmler, Undergraduate Student
- Sheree Ohen, Associate Dean of Diversity, Inclusion and Belonging
- Remedy Ryan, Undergraduate Student
- Saul Soto, Undergraduate Student
- Moriah Silver, Program Officer for Title IX and Professional Conduct, FAS Human Resources and FAS Office for Faculty Affairs
- Robert Wood, Charles River Professor of Engineering and Applied Sciences
- Kwok Yu, Senior Associate Dean of Faculty Affairs

In addition, Lisa Mincieli, Director of Special Projects in the FAS Office for Faculty Affairs, and Johannah Park, Manager of Academic Programs in the FAS Office for Faculty Affairs, provided staff support.

B. Committee Charge

The committee was charged with a three-part review:

“First, CRCPP is charged with gathering feedback from FAS students, faculty, researchers, and staff concerning the ‘[Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct](#).’ These interim policies and procedures went into effect on September 14, 2020 in response to the U.S. Department of Education’s May 2020 Title IX regulations.

Second, CRCPP is charged with thoroughly reviewing and recommending to Dean Gay any changes or further supplements to the FAS’s ‘[Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct](#).’ In particular, elements of the interim FAS policies and procedures extend and expand on the University policies and procedures. The CRCPP is charged with reviewing the FAS-specific policies and procedures and recommending any changes or further supplements. This review gives the FAS an opportunity to, as needed, further extend and expand on the two University policies in consideration of the FAS’s context and needs. This is also an opportunity to thoughtfully draw on all the lessons learned since the FAS’s 2015 development of policies and procedures in this area.

Third, CRCPP is charged with comprehensively reviewing FAS faculty professional conduct policies that fall beyond the scope of sexual and gender-based harassment and other sexual misconduct and with making recommendations to the FAS Dean. CRCPP will conduct an inventory of these disparate policies, assess them, and recommend a clear and coherent FAS faculty professional conduct policy (or policies), with a goal of eliminating any internal inconsistencies, redundancy, or ambiguity. CRCPP is also tasked with recommending to the FAS Dean policies in important areas where it judges that there is a lack. Subject to the committee’s judgment, this may or may not include policies pertaining to bullying, retaliation unrelated to sexual or gender-based harassment or other sexual misconduct, racial discrimination, or other matters.

In this third area of its charge, CRCPP will not address policies governed by federal or state regulations, and it will not address research misconduct or conflicts of interest, which are governed by other University and FAS policies. CRCPP’s review will include (and is not limited to) policies and procedures such as the FAS Professional Conduct Policy (see [Chapter 2, Section E2](#), in the *FAS Appointment and Promotion Handbook*) and the ‘Conduct’ guidelines for FAS instructors (available in [Information for Faculty Offering Instruction in Arts and Sciences](#)).

CRCPP’s work in all three areas of its charge will help to bring clarity to FAS values and expectations concerning sexual and gender-based harassment, other forms of sexual misconduct, and unprofessional conduct.”

C. Committee Process

1. Committee meetings

CRCPP met both as a full committee and as two subcommittees. One subcommittee, led by Professor Somerville, focused on Title IX, and the other, led by Dean Zipser, focused on professional conduct. Breaking into two subcommittees enabled CRCPP to give focused attention to each of these topics.

As a full committee, CRCPP met six times via Zoom, from November 2020 to April 2021. During several of these meetings, the committee spent a portion of the meeting working in their subgroups. In addition, each subcommittee met on their own, worked among themselves by Zoom, email, and shared documents, and reported back to the full committee.

CRCPP viewed its goal as helping to ensure that the FAS community is one in which all members can do their best work. The FAS has high expectations for its faculty, staff, students, and researchers; and each day, thousands of our community members work hard to fulfill the FAS mission of advancing and disseminating knowledge. CRCPP recognizes that creating an environment conducive to this work goes beyond creating a list of rules. For that reason, we approached our charge from two angles. First, we asked what policies and procedures were necessary to protect vulnerable members of our community and to hold accountable those responsible for wrongdoing. Second, we thought about proactive ways to support the community and create a healthy and productive environment. Thus, as we discuss in this report, our recommendations run the gamut from proscriptive policy changes to a greater emphasis on education and training. CRCPP believes that these recommendations will lead to a stronger FAS and will enable all who work and study here to be their best selves each day.

2. Outreach

In addition to its own meetings, CRCPP conducted outreach to the FAS community. A central tenet of the CRCPP charge was to gather feedback from all relevant constituencies within the FAS community. In addition to feedback on the “[Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct](#),” the committee also sought feedback on professional conduct and on the education and culture surrounding harassment and misconduct in the FAS. Our outreach efforts are listed in the table below. In addition to the meetings listed below, Dean Gay discussed CRCPP’s work in the February 10, 2020 and March 10, 2021 Faculty Council meetings and in the November 3, 2020 Faculty Meeting, inviting faculty members to reach out to the committee. We also canvassed all FAS community members via an open invitation to write to us at crcpp@fas.harvard.edu.

Furthermore, on two occasions members of the CRCPP met with representatives from Princeton University’s Title IX Office and its Sexual Harassment/Assault Advising, Resources & Education (SHARE) Office, to discuss best practices. We thank our Princeton colleagues for these fruitful discussions.

CRCPP Outreach	Date
Office for Sexual Assault Prevention & Response	12/15/20
Princeton Title IX and SHARE representatives (1 st meeting)	12/15/20
<i>Our Harvard Can Do Better</i> , undergraduate advocacy group	12/17/21
Office for Dispute Resolution	1/7/21
Princeton Title IX and SHARE representatives (2 nd meeting)	1/11/21
Economics Department	1/14/21
Anthropology Department	1/22/21
Psychology Department	1/25/21
Government Department	1/29/21
Resident Deans	2/11/21
Listening sessions: College students	2/17/21; 2/23/21; 3/2/21
Listening sessions: Staff	3/8/21; 3/12/21
FAS Postdoctoral Association	3/9/21
Harvard Graduate Women in Science and Engineering	3/15/21
Listening session: GSAS students	4/7/21

We are extremely grateful to the entire FAS community for their thoughtful and candid comments and reflections on their experiences as students, teachers, researchers, managers, and the many other roles they fulfill. Everyone's comments not only shed light on policies regarding sexual and gender-based harassment, other forms of sexual misconduct, and unprofessional conduct, but also on how we as a community can grow and improve to ensure that everyone can do their best work.

We share community insights at greater length throughout Section IV.

III. Current Policies

As stated in the Introduction, the FAS currently operates under the “[Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct](#).” This policy incorporates the University [Interim Title IX Sexual Harassment Policy](#) and the University “[Interim Other Sexual Misconduct Policy](#).”

The FAS-specific provisions in the “Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct” afford additional protections, such as covering misconduct that falls outside of the jurisdiction of the University policy, applying *quid pro quo* sexual misconduct to student organizations, and specifying prohibited relationships, including between faculty and undergraduate students.

Additionally, FAS faculty are covered by the following policies regarding professional conduct: [Chapter 2, Section F2](#), in the *FAS Appointment and Promotion Handbook*) and the “Conduct” guidelines for FAS instructors (available in [Information for Faculty Offering Instruction in Arts and Sciences](#)). Regarding treatment of others in the FAS community, bullying, and collegiality, the FAS policy is, “Faculty should treat members of the FAS community with respect and collegiality.”

IV. Community Feedback and Recommendations

CRCPP spent hours collecting feedback from the community to determine whether and where FAS interim policies and procedures fell short in protecting the community.

In this section of the report, we discuss key issues that emerged in the feedback and CRCPP’s recommendations to address these issues.

For ease of reading, we have organized this discussion into three main topics: A. Sexual Misconduct, B. Professional Conduct, and C. Departmental Support (which applies to both Sexual Harassment and Professional Conduct issues). Within each of these three topics, we further break our discussion into subtopics. We start each subtopic discussion with the feedback we received, and we end each discussion with our recommendations.

A. Sexual Misconduct

CRCPP asked the community to comment on the “Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct” as well as the culture and education surrounding sexual misconduct on campus. The community strongly conveyed that the FAS should both implement policies to protect victims of sexual misconduct and improve the culture surrounding these issues in the FAS, to avoid their occurrence in the first place.

We group community concerns regarding sexual misconduct into five subtopics or themes: (1) Lack of understanding of Title IX, (2) Lack of trust and support, (3) Disincentives to reporting

(4) Incomplete policies that do not represent FAS values, and (5) Unwelcoming culture regarding sexual misconduct.

1. Lack of understanding of Title IX

Many community members reported confusion about the numerous offices (e.g., FAS Title IX, Central Title IX, Office of Dispute Resolution) and policies (e.g., University “Interim Title IX Sexual Harassment” policy, University “Interim Other Sexual Misconduct Policy,” “Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct”). People are unclear about what falls under which policy, and who to go to and when. In particular, the community raised the following concerns:

- Many students, as well as international community members, do not know what Title IX means. They may not go to Title IX training because they don’t understand the issues it covers or how important it is for them to understand these policies.
- Remedies outside of the ODR-run, formal Title IX investigation process are not well-known. Many in the community are not aware that supportive measures can be put in place if an issue does not rise to the level of a Title IX violation or if individuals do not want to go through the ODR process. Similarly, people are not aware that through the University “Interim Other Sexual Misconduct Policy,” violations that do not fit the strict new definition of a Title IX violation may be investigated as well.
- The disclosure, complaint, and investigation processes are neither clearly written nor easy for people to find. Many people said that Title IX materials are often written in an overly legalistic style and are dispersed across multiple documents. Community members recommended a flow chart or similar document to concisely summarize the options available to individuals who experience sexual misconduct. A clear document laying out options should be made widely available to the community.
- It is not clearly understood that Program Officers for Title IX are available for education, prevention, or just a conversation about an uncomfortable situation. Members of the community expressed hesitation to speak with a Program Officer, believing any contact could spiral out of their control and/or automatically trigger an investigation.

Recommendations

We recommend that major efforts be made to educate the community about Title IX policies, the Title IX and related offices, and what happens if individuals make contact with the Title IX office. Such educational efforts should:

- Avoid using legalistic language and jargon (we recommend flowchart and infographic charts in addition to written descriptions).
- Include examples of the most common reasons for coming into contact with the Title IX office, relevant to a wide range of community members.
- Dispel commonly held myths about Title IX (e.g., “Talking to a Title IX office will trigger an investigation.”).

- Bolster training for mandated reporters about (a) how to make a mandated report, and (b) how to respond to an individual disclosing experiences of sexual harassment or misconduct.

The current, mandatory FAS online training module should be adapted to:

- Include a wider range of examples, to make the training relevant to more of the FAS community (e.g., those who do field work, or group members, such as postdoctoral fellows).
- Describe the mandated reporting requirements more clearly (e.g., who is a mandated reporter, what requires reporting, how to report).

The mandatory online training module should not be considered sufficient. In-person trainings, customized to different groups within our community, are necessary.

2. Lack of support and trust

Many people commented on the lack of support for people going through the ODR formal investigation process or informal complaint process and the lack of trust in the system. The perception is that both deficiencies can disincentivize an individual from bringing a complaint forward, and it is essential that victims of sexual assault or misconduct not feel revictimized. In particular, community members noted the following items:

- There are no peer support networks for graduate students. College students have [Consent Advocates & Relationship Educators](#) (CARE) as a peer support system,⁷ but no similar system is in place for GSAS students.
- There is a perception that complaints that do not meet the Title IX threshold fall into a “black box” and are not dealt with appropriately. Because a community member who brings a concern forward may not see any of the actions taken by the administration, they may feel that nothing has been done.
- The reduced staffing and support for OSAPR over the past few years creates a perception that sexual harassment and misconduct are not a high priority for the FAS. It also creates a dearth of advocates for victims of sexual assault and misconduct. Peer institutions with comparably-sized student populations have significantly more trauma-informed counselors and advocates.
- The announcement that OSAPR and Title IX offices will be consolidated within the new Office of Gender Equity (OGE) has raised questions about how the two offices will retain their separate missions.

⁷ The CARE function has been consolidated into peer counseling.

Recommendations

The Committee recommends a re-envisioning of OSAPR to better meet the needs of the community. We recommend that OSAPR (which will soon be renamed SHARE [Sexual Harassment/Assault Resource Education]) adopt practices that are highly successful at our peer institutions (e.g., the [SHARE](#) office at Princeton University). Harvard's SHARE would:

- Serve as a centralized, first point of contact for any Title IX-related issue, mitigating confusion about what to do or where to go.
- Staff would have the training and responsibility to provide advocacy services and maintain their supportive role for anyone going through a formal ODR process and at all points of the process (from initial contact through investigation).⁸
- Lead prevention and educational efforts.
- Offer support to both individuals who are reintegrating into communities after an investigation and to the communities into which they are reintegrating.
- Receive sufficient resources to support a well-trained, diverse staff able to provide services to more than 23,000 students and 16,000 employees.

The Office of Gender Equity should be organized and presented to clearly communicate the complementary roles of the Title IX and OSAPR/SHARE entities:

- The distinct roles of staff within SHARE (confidential advocates) and the Title IX Office (a neutral resource) should be clearly emphasized to the community.
- SHARE resources should be accessible in a location distinct from the Title IX Offices.
- It should be clearly and prominently communicated that the SHARE program provides advocacy and confidential crisis counseling.

3. Disincentives to reporting

While many of the concerns brought forth by the community *create* disincentives to report sexual harassment or misconduct, community members also flagged aspects of the process that disincentivize reporting. They noted the following:

- The ODR process is emotionally taxing and time-consuming and can be traumatic for the complainant. There is a perception that it favors the respondent.
- The ODR process is legalistic, often perpetuating an unequal distribution of resources, as it favors people who are older, more experienced, and wealthier. Many community members lack the financial means to hire a lawyer, and some lack the experience and self-confidence necessary to do so.

⁸ [Massachusetts law](#) ensures “that a student or employee of the institution is able to access free and confidential counseling and advocacy services either on campus or off campus.” Princeton, Yale, Cornell, Columbia, Brown, Dartmouth, and the University of Pennsylvania all provide advocacy services.

- There is a perception that ODR investigators are unsympathetic. Community members understand that this could just be an effect of a legalistic process. However, they also feel that ODR investigators could show more empathy.
- Many community members, particularly graduate students and researchers working under a Principal Investigator, feel unable to take action because a complaint would have repercussions for their academic work (e.g., there may be no other faculty studying their topic, the student or researcher’s funding comes from one lab, there may be reputational concerns, etc.)

Recommendations

The Committee recommends that an assessment be undertaken of how ODR implements their policies and procedures with respect to the educational mission of the University. We recommend that this review be focused on how ODR practices balance the need to conduct a thorough, neutral, and professional investigation with the simultaneous need to minimize the burden on individuals involved in an investigation, including the emotional toll, the time required of individuals involved, and the overall duration of investigations.

Complaints about a pattern of behavior that impacts multiple parties should be investigated more holistically, to better identify and hold accountable individuals who engage in repeated conduct.

The Committee recommends establishing a central fund to support legal representation for complainants or respondents involved in a formal investigation. Funds would be allocated based on need, aiming to promote equity in legal representation. We recommend that the Central Title IX office partner with local schools to establish a policy on disbursing these funds when needed.

4. Incomplete policies that do not represent FAS values

Another common theme in community feedback was that policies in the FAS and University Title IX and “Other Sexual Misconduct” policies do not prohibit conduct that violates our fundamental values, and these policies need to be expanded to provide greater protections. Specifically, concerns arose regarding the following:

- The policies regarding prohibited relationships do not go far enough. While relationships between faculty and Harvard College students, as well as relationships when someone is subject to an individual’s academic supervision, are prohibited, the policy does not cover many additional relationships that have potentially damaging power dynamics.
- No articulated amnesty policy exists. This creates a disincentive for students to come forward with complaints, because they are concerned they may face disciplinary action.
- The definition of consent in the University policy lacks an emphasis on personal responsibility, is much less affirmative than peer institutions’ policies, and does not specify enough stipulations around consent.
- The current definition of stalking is the minimum legal definition and lacks detail on what behaviors would actually fall under this definition.
- The current definition of dating violence needs to be expanded and clarified.

- The jurisdiction of Harvard FAS Title IX policies needs to be clarified.
- There is no across-the-board minimum penalty for members of the FAS community who have been found in violation of Title IX or “Other Sexual Misconduct” policies.
- There is a lack of transparency in the outcomes of sexual misconduct cases. As a result, community members have the impression that no one is held accountable for their actions.

Recommendations

Policy on relationships between people of different university statuses

Categorical restrictions. Some relationships are categorically prohibited. Currently, relationships between faculty and undergraduates at Harvard College are prohibited. We recommend additionally prohibiting:

- Relationships between *faculty* and *staff they supervise* (including but not limited to research staff, administrative staff, postdoctoral fellows).
- Relationships between *faculty* and *Harvard affiliates they sponsor* (including but not limited to non-student interns, visiting scholars).
- We recommend leadership at Harvard College conduct a follow-up evaluation of prohibited relationships between *undergraduates* and *staff members who work in residences and/or hold student-facing roles*. There are select positions that are categorically prohibited, but many other student-facing roles that are not specified.

Required disclosure/conflict management. Other relationships are not categorically prohibited, but require disclosure so that power dynamics can be managed appropriately. We recommend expanding those relationships that must be disclosed to include:

- Relationships between *tenure-track faculty* and *tenured faculty* within a department should be disclosed to the Department Chair or Divisional Dean. The tenured faculty member should be recused from any evaluation of the tenure-track faculty member and any decision regarding allocation of resources to the tenure-track faculty member.
- Relationships between *faculty* and *graduate students* within the same department/program. These relationships are currently prohibited in cases where there is academic supervision. However, even when there is not direct academic supervision, these relationships should be disclosed to the Department Chair so that the faculty member is restricted from other power-based roles within the department (e.g., those which involve delegation of resources, allocation of professional opportunities, etc.).

Policy on amnesty

The committee judged the current policy on amnesty to be insufficient, as it sends the messages that amnesty will be considered but never assured and that considering disciplinary action separately from a Title IX case (as currently stated) implies *delayed* disciplinary action rather than actual amnesty. It is also not clear when or how it would be deemed necessary, per the

policy, to pursue disciplinary action.

The committee proposes that revisions be made to provide greater clarity that disciplinary action will not be taken for alcohol and other drug-use violations, which is the most common policy violation associated with disclosures of sexual misconduct. We propose that other policy violations be considered for amnesty on a case-by-case basis. For example, Brown University's amnesty policy incorporates language more aligned with this message:

"The University will offer amnesty to Complainants, Respondents, reporting parties, and witnesses who disclose the personal ingestion of alcohol or other drugs, when making a report of Prohibited Conduct and/or participating in a complaint procedure associated with this policy."

We additionally recommend adding language to indicate that although individuals would be shielded from disciplinary action in these circumstances, the University would not be prevented from taking appropriate *non-disciplinary* actions to ensure their health and safety and/or mitigate future violations. We recommend adopting the following addition to the policy, adapted from Brown University's policy language:

"Although amnesty safeguards the individual from disciplinary action for drugs or alcohol, it does not exempt the University from taking appropriate non-disciplinary action to address the conduct and/or mitigate future violations, or to address health and safety concerns."

Policy on consent

In many of the committee's outreach meetings with undergraduate and graduate students, the students requested that the University adopt an affirmative consent policy. Most of our peer institutions have adopted an *affirmative consent* policy, which emphasizes the active, voluntary, and ongoing nature of assessing another individual's consent to engage in sexual activity (see Appendix 2 for examples of affirmative consent policies at peer institutions). We recommend adopting an affirmative consent policy, with the following elements:

- Explicit adoption of "affirmative" language. The Committee recommends modifying the current definition of consent (currently: *"agreement, assent, approval or permission given voluntarily and may be communicated verbally or by actions."*). We recommend adopting an affirmative description consistent with what many of our peer institutions use. For example, Brown University describes consent as:

"... an affirmative and willing agreement to engage in specific forms of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely and affirmatively chosen to engage in sexual contact."

- Statement of responsibility. The Committee recommends adding language to indicate that it is the onus of each participant to actively confirm consent by each other participant. We recommend that such a statement replace the first sentence of Harvard's current

definition of consent, which describes unwelcome conduct. For example, Stanford University’s consent definition includes the following sentence:

“It is the responsibility of each person involved in the sexual activity to ensure that the person has the Affirmative Consent of the other or others to engage in the sexual activity.”

- Statements of stipulations. We recommend that Harvard’s definition of consent be clarified to make the stipulations of consent more transparent. Currently, the definition stipulates that different forms of sexual contact must each be consented to, and that consent must be given across individual instances. We propose that additional stipulations be added to emphasize consent as an active and affirmative process. For example, Yale University’s policy includes the following statement:

“Consent cannot be inferred merely from the absence of a “no.” A clear “yes,” verbal or otherwise, is necessary.”

We also recommend that both a definition of incapacitation and statement about how incapacitation affects consent be included. The following language would serve this purpose (from Yale University policy):

“A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity.”

“Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated due to alcohol, drugs, or some other condition.”

“Engaging in sexual activity with a person whom you know—or reasonably should know—to be incapacitated constitutes sexual misconduct.”

Definition of stalking

At present, Harvard uses the legal minimum definition of stalking, and it lacks specific behaviors that would fall under this definition. Harvard’s definition of stalking should be clarified and strengthened by including clear examples of stalking. For example, MIT policy includes behavioral descriptions of stalking in their definition, including in-person and digital spaces:

“Examples include, but are not limited to, two or more instances of the following conduct (that also meet the definition of stalking above): following a person; appearing at a person’s home, class, or work; continuing to contact a person after receiving requests not to; leaving written messages, objects, or unwanted gifts; vandalizing a person’s property; photographing a person; and other threatening, intimidating or intrusive conduct. Stalking may also involve the use of electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices (often referred to as cyber-stalking). Such conduct may include, but is not limited to,

non-consensual communication, telephone calls, voice messages, emails, texts, letters, notes, gifts, or any other communications that are repeated and undesired.”

Definition of dating violence

Harvard policy uses the current federal law definition of dating violence, and it applies to a restricted set of behaviors (physical or sexual abuse, or threats thereof), while excluding other forms of relationship violence that could have a strong impact on victims. “Domestic violence” uses the current definition in federal law. Thus, there exists a gap such that serious forms of relationship violence are not included under any policy.

We propose closing this gap by expanding the definition of dating/relationship violence to include behaviors that clearly cause harm and violate our community’s standards for conduct. For example, Stanford University’s definition of relationship violence includes:

“... verbal or non-verbal communication with the intent to harm another person emotionally, intimidate another person, and/or exert control over another person, of an ongoing and severe nature such that it would cause a reasonable person to experience severe distress, to be fearful for their safety and/or to significantly alter daily routines and activities in order to ensure their safety.”

In addition, it should be specified that cyber-harm be included as an arena in which relationship violence can occur.

Finally, the Committee recommends discontinuing use of the term “dating violence” and replacing it with “dating and relationship violence.” The term “relationship” is better aligned with the way that students, especially undergraduates, define their romantic and intimate relationships, which may or may not fall into the traditional context of “dating.”

Jurisdiction

We recommend that policies be revised to clarify that all other sexual misconduct and professional conduct policies apply to community members’ conduct when

- 1) On Harvard property
- 2) Off Harvard property if:
 - a. The conduct was in connection with a University program, a University-recognized program or activity, or another work-related activity such as attending a conference, conducting research in the field, providing expertise to policymakers, presenting a talk at another institution, etc.
 - b. The conduct may have the effect of creating a hostile or abusive environment for a member of the University community.

We additionally recommend that policies be aligned across different sections of the University, as many members of the community have affiliations that span multiple parts of the University. For these individuals, including a large population of GSAS students who are cross-affiliated

between GSAS and the Medical School, it is ambiguous which policies apply to them. Jurisdiction would be streamlined if the University adopted common policies.

Increasing transparency regarding outcomes following contact with Title IX office

The Committee supports the recommendation of the external review committee to improve transparency around investigations and sanctions.⁹ We recommend publishing a summary report of Title IX activities, similar to Yale's twice-yearly report,¹⁰ including:

- Data on outcomes of disclosures/investigations.
- University status of complainants and respondents.
- Frequency and types of informal resolutions and supportive measures.

5. Unwelcoming culture regarding sexual assault and misconduct

A recurring theme in community comments and in the external review committee's comments is the need for additional education about sexual harassment. Specifically, community members raised concerns regarding the following:

- College students need developmentally-appropriate education that clearly defines behavior that violates our expectations and policies. Most 18-year-olds need education about consent and how the influence of alcohol and/or drugs may affect the ability to consent. Faculty and staff, who have been exposed to Title IX and related issues over time, may forget that those entering our community have little to no experience with these matters.
- Some community members (particularly students) may not understand that sexual misconduct may not manifest as a single extreme incident. Students may experience a pattern of uncomfortable and inappropriate situations, not realizing the pattern of behavior violates a university policy.
- Community members who have a responsibility to share information with a Title IX Resource Coordinator need more trauma-informed training.
- Bystander training is, and has been, missing from Title IX and related trainings.

Recommendations

The Committee recommends that the FAS more strongly signal norms and expected conduct among our community, including:

- Strengthening proactive communications and proactive, prevention-focused trainings (e.g., education on community standards, bystander intervention, education on consent).
- Strengthening messaging around community expectations for appropriate behavior.

⁹ https://provost.harvard.edu/files/provost/files/report_of_committee_to_president_bacow_january_2021.pdf

¹⁰ <https://provost.yale.edu/title-ix/reports>

- Holding events and broadcast communications that visibly reinforce our community’s values as a place where sexual harassment and misconduct are not tolerated.
- Collecting (e.g., via a periodic survey) data to gain insights into the community’s experiences and to track changes over time.

B. Professional Conduct

CRCPP also sought feedback from the community on the FAS Professional Conduct Policy for faculty. As mentioned in Section III, the current policy states, “Faculty should treat members of the FAS community with respect and collegiality.” This policy can be interpreted in many ways, and greater specificity is needed. Community members raised this concern and also described a gamut of situations, from poor management and ineffective advising to bullying behaviors that may create a toxic environment.

CRCPP took a two-pronged approach to addressing this wide range of concerns. First, we believe that clearer policies, procedures, and sanctions concerning professional conduct need to be formulated. These policies set important standards and embody our community’s values. Conduct that rises to the level of policy violations can then be clearly dealt with. At the same time, an enormous amount of work needs to be done—through education, training, early intervention, and other cultural change—to create an environment that can prevent unprofessional conduct from occurring in the first place, and/or that can neutralize problematic behaviors before they rise to the level of policy violations. To create and sustain a productive and healthy working and learning environment, we believe it's important to improve management and advising across the FAS, as well as guard against bullying and other unprofessional behaviors. Thus, our recommendations span poor advising and unproductive management situations to situations that rise to the level of policy violations.

The committee feedback gathered by CRCPP can be summarized in two areas: (1) Policies, procedures, and sanctions and (2) Training/Expectations. The issues in each of these areas are discussed further below.

1. Policies, procedures, and sanctions

As stated above, the current Professional Conduct Policy for faculty lacks specificity. CRCPP heard the following concerns regarding this policy:

- There is no clear bullying policy, as has been developed by many peer institutions.
- The Professional Conduct Policy does not address situations such as consistent and continuing public humiliation of a colleague or supervisee, or other forms of abusive management. Such consistent, abusive behavior is distinct from one-off situations where, for instance, a faculty member unthinkingly gives public feedback to an individual in a way that is unintentionally embarrassing to that individual.
- Sanctions for violation of the Professional Conduct Policy are not clearly stated. This provides no disincentive for faculty to refrain from problematic behavior. It also

contributes to the perception of those who work for faculty members that there are never any repercussions for poor behavior.

- The [University Non-Retaliation Policy](#) does not go far enough to cover the multiple academic ways that faculty can retaliate against a complainant.
- The process of how to report a Professional Conduct violation is unclear. Multiple community members noted that they did not know who to report such violations to, what their options were in terms of voicing a complaint, or what the process was once a complaint was filed.

Recommendations

Proposed FAS Professional Conduct Policy

Individuals in a position of authority holding academic appointments in the Faculty of Arts and Sciences¹¹ (hereafter for the sake of brevity in this policy referred to as “Faculty” or “Faculty Members”) have an obligation to uphold the highest standards of professionalism and integrity in their interactions with all members of the FAS community, including faculty colleagues, students, persons holding research appointments (e.g., postdoctoral fellows), and staff members. Faculty members are expected to abide by the FAS Professional Conduct policy 1) on-campus at all times and 2) off-campus when they are representing the University in any professional capacity (e.g., leading a group of researchers in the field or attending an academic conference, attending University-related or University-funded social or extracurricular activities). In both circumstances, this policy also applies to faculty members’ actions in any electronic or digital medium.

Any current or former member of the Harvard community may bring concerns about an FAS faculty member to the FAS [Office for Faculty Affairs](#) (OFA). Bringing a concern to the attention of the OFA does not automatically launch a formal investigation or mediated resolution. Supportive measures (as outlined below) will be provided regardless of whether a mediated resolution or formal investigation is launched, as appropriate.

1. Bullying

Faculty members must maintain an environment free from bullying behavior, defined as: harmful mistreatment by words or actions that humiliate, degrade, demean, intimidate, embarrass, and/or threaten an individual or group. A person or group who is a target of bullying may not be the only target, or even an intended target; behavior that foreseeably places bystanders or unintended targets at risk or in fear, or causes them to feel threatened or humiliated, is within the scope of this definition.

¹¹ Tenured Professors, Associate Professors, Assistant Professors, full- and part-time Professors of the Practice, Professors in Residence, Senior Lecturers, Senior Preceptors, Benjamin Peirce Fellows, Briggs-Copeland Lecturers, Associate Senior Lecturers, Lecturers, Preceptors, College Fellows, Visiting Faculty, Emeriti Faculty, Teaching Assistants, Teaching Fellows, Fellows, Post-Doctoral Fellows, Research Associates, Research Fellows, Research Scientists, Senior Research Scientists, Senior Research Fellows and Visiting Scholars.

For a violation of FAS bullying policy to occur, the behavior must be sufficiently pervasive, persistent, or severe such that a reasonable person or persons would find it creates inhospitable learning and/or working conditions and/or impairs a person or group's ability to carry out their duties to the University or pursue their educational program. This policy ensures that all, regardless of rank or status, may pursue their work and/or learning. Such behavior may include, but is not limited to:

- Abusive expression (including spoken, written, recorded, visual, digital, or nonverbal) directed at another person or group in the workplace and/or learning environment, such as derogatory remarks or epithets that are outside the range of commonly accepted expressions of disagreement, disapproval, or critique in an academic culture and professional setting that respects free expression;
- Unwarranted physical contact or intimidating gestures;
- Conspicuous and unwarranted exclusion or isolation of an individual or individuals, with the effect of harming the person's or persons' reputation in the workplace and/or learning environment and hindering their learning or work;
- Sabotaging or threatening to sabotage another person's or persons' studies, work, or career advancement;
- Abuse of authority, such as using threats or retaliation in the exercise of authority, supervision, or guidance, or impeding or attempting to impede another person or persons from exercising rights under any of Harvard's policies or procedures.
- Bullying behavior that leads to dysfunction in a research group or other collective research enterprise.¹²

If an individual is experiencing any of the above behaviors, or believes they may be a victim of bullying, they are encouraged to contact the [Office for Faculty Affairs](#).

The FAS bullying policy is not intended to discourage or interfere with ordinary working, mentoring, or educational relationships, including the solicitation or delivery of constructive and educational feedback, as appropriate.

The FAS bullying policy should also be construed within the context of the University's historical and enduring commitment to academic freedom, freedom of expression, and the conception of the University as a place that must encourage the free exchange of ideas, beliefs, and opinions, however unpopular. In no case shall a sanction be imposed in response to a complaint about bullying that is solely based on disagreement with the contents of a faculty member's beliefs, views, or opinions taken in the abstract. The policy is not intended to constrain the freedom of faculty to engage in academic disagreements or to speak out about troubling matters, criticize the administration or University policies, or take part in political protest.

¹² Examples of dysfunction that may be experienced as punitive impacts due to bullying may include but are not limited to abandoning a line of research; withdrawal of funding; delays in completing projects, among other things.

2. Extreme negligence or poor professional judgement

Faculty must avoid behaviors which display a pattern of extreme negligence or poor professional judgment that endangers the health, safety, or well-being of any person or group, or unreasonably interferes with a person's or group's ability to perform University duties or undertake their course of education or training.

3. Use of uncompensated labor

Faculty members should not use their positions to obtain uncompensated labor from any member of the community, especially under their supervision. This includes, but is not limited to, requiring staff under their direction to perform services or duties unrelated to or outside their professional/job responsibilities.

4. Confidentiality

Faculty members must uphold confidentiality in matters pertaining to student and employee files and records, which could reasonably be considered confidential. This could include employment information, employee records, or student application materials.¹³

5. Non-Retaliation

Faculty members must abide by Harvard University's [Non-Retaliation Policy](#), "The University expressly forbids anyone to take any form of retaliatory action against any member of the Harvard community who in good faith voices concerns, seeks advice, files a complaint or grievance, seeks the aid of Human Resources, testifies or participates in investigations, compliance reviews, proceedings or hearings, or opposes actual or perceived violations of Harvard University's policy or unlawful acts." In addition, retaliation against someone who offers or provides support to an individual who makes or may make a good faith report of misconduct is forbidden. Examples of adverse actions may include but are not limited to:¹⁴

- Adverse employment action (e.g., termination; demotion; reduction in pay; adverse change in schedule, working conditions, or work location; assigning more onerous work or taking advantageous assignments/responsibilities away; or exclusion from work-related opportunities, conferences, or other activities)
- Adverse action related to a University educational program (e.g., unwarranted negative reference; impeding the individual's academic advancement; adverse change to grades, class schedule, or research opportunities or funding; making unwarranted critical comments lacking in good reason about the complainant to others in the department,

¹³ For example, no faculty member should suggest that they were the reason that a student was admitted to a program, in such a way that the student feels unduly obligated to that faculty member and/or their academic advancement or education is impeded.

¹⁴ <https://policies.mit.edu/policies-procedures/90-relations-and-responsibilities-within-mit-community/97-non-retaliation>

program, or broader academic field; unwarranted withdrawal of support of the individual's research program)

- Stalking, harassment, intimidation, threats, or engaging in physical violence
- Adverse social actions such as exclusion or removal from a group or committee, or publishing personally identifiable information about an individual, including on websites or social media sites
- Encouraging or asking a third party to engage in retaliatory conduct (this includes the use of online platforms or social media for the purpose of retaliating against a person or group).

6. Obligation to follow all relevant policies and laws

Faculty members must comply with all applicable laws, rules, regulations, and professional standards, including FAS policies and practices; this includes, but is not limited to, policies regarding discrimination, and sexual and gender-based harassment. In addition,

- a) Faculty members should not undertake unauthorized use of University resources or facilities on a significant scale for personal, commercial, political, or religious purposes.
- b) Faculty members should not commit forgery, alteration, misuse of University documents, records, or identification, or knowingly furnishing false information to the University.
- c) Conviction of a felony that is clearly related to performance of University duties is a violation of this policy.

Non-compliance with the FAS Professional Conduct guidelines above will be communicated to the Edgerley Family Dean of the Faculty of Arts and Sciences and could result in varying sanctions, including but not limited to such measures as: reduction in access to resources, reduction in oversight duties, reduction in salary, mandatory coaching and training, unpaid leave, or recommendation of tenure termination. The Edgerley Family Dean of the FAS may make modifications to the FAS Professional Conduct Policy and Procedures, and in the event that they do so, relevant parties will be notified.

Proposed FAS Professional Conduct Procedures

There should be a range of options available to community members who wish to report or seek guidance about professional conduct issues. These options are listed below.

Requests for Support, Information, or Advice: Anyone seeking support, information, or advice can contact the Office for Faculty Affairs. They can expect to learn about resources available at the University and elsewhere that provide counseling and support. They will be informed about the steps involved in pursuing a mediated resolution or filing a formal complaint, as well as supportive measures, as appropriate.

Informal Assessment into Incident or Course of Conduct: When a professional misconduct incident or course of conduct by a Faculty Member is brought to the attention of the Office for Faculty Affairs or a Program Officer for Title IX and Professional Conduct, an informal assessment may be undertaken. To the extent possible, an informal assessment will preserve the

anonymity of those reporting concerns and/or those impacted by the conduct. A typical informal assessment involves discreet conversations with individuals who would be likely to have information about the alleged conduct. It is not an investigation and does not result in sanctions. An informal assessment may result in supportive measures, defined below, determined necessary to address, remedy, and/or prevent future harm to the community.

Mediated resolution: Anyone may make a request to the Office for Faculty Affairs, either orally or in writing, for support in resolving a concern that a FAS faculty member or researcher may have violated FAS or University policies. OFA will assign a Program Officer who will consult further with the person initiating the request and determine if a mediated resolution is appropriate. The Program Officer will inform the person who is the subject of the allegations, and gather additional relevant information as necessary from the parties and others. The Program Officer may put in place any appropriate supportive measures. The Program Officer will attempt to aid the parties in finding a mutually acceptable resolution. A matter will be deemed satisfactorily resolved when both parties expressly agree to an outcome that is also acceptable to the Dean for Faculty Affairs and Planning. A mediated resolution may not be suitable, especially if the concern falls under another FAS or University policy. Ordinarily, the informal resolution process will be concluded within four weeks of the date of the request.

Formal Process: The FAS may institute a formal investigation of a FAS faculty member when (1) any current or former member of the Harvard Community submits a signed and dated formal complaint to the Dean for Faculty Affairs and Planning or Program Officer, or (2) the FAS administration, after conferring with senior faculty advisors, determines that the allegations represent a risk to the well-being of the community.

Throughout the course of the investigation, the FAS will provide frequent updates to both the complainant and the respondent. Additionally, should the circumstances warrant, the FAS may provide interim supportive measures throughout all or part of the investigation. The FAS may impose reasonable timeframes to enable the timely completion of a formal investigation. There may be circumstances requiring longer timeframes, and the FAS will notify the parties of any extensions of timeframes.

The steps below outline the process for investigating a formal complaint.

1. The Dean for Faculty Affairs and Planning, in consultation with the appropriate parties, which may include the FAS Dean and the Academic Deans, conducts an initial review to determine if the formal complaint warrants an investigation. The decision will be communicated in writing to the complainant. The initial review will be concluded approximately one week after the date the formal complaint was received.
2. In case of an investigation, the Dean for Faculty Affairs and Planning identifies a trained investigator to investigate the allegations. The investigator will meet with the complainant to better understand the nature of the complaint, request evidence, ask if the complainant is aware of other people who may have been impacted by similar unprofessional conduct, and explains the steps to be taken in the investigation.

3. The investigator shares the allegations in writing with the respondent. The respondent will have one week to submit a written statement in response to the allegations, but is not required to do so.
4. The investigator conducts fact finding interviews and collects other information. The complainant and respondent have the right to submit evidence and propose witnesses to be interviewed. The investigator may, as needed, consult with the Dean for Faculty Affairs and Planning or their designee, the Office of the General Counsel, or other University offices, for example regarding the scope of the investigation, or how to differentiate between “constructive feedback” and “abusive expression.”
5. The investigator prepares a summary of the information they collect and shares it with the complainant, respondent, and Office for Faculty Affairs.
6. The parties will have one week to submit a written statement in response to the summary information, but are not required to do so. The investigator may request individual follow-up interviews with the parties or others.
7. Using all of the information gathered, the investigator determines, using a preponderance of the evidence standard, whether the respondent violated FAS policies.
8. The investigator prepares a report with their findings and shares it with the complainant, respondent, and the FAS Dean, copying the Dean for Faculty Affairs and Planning. The complainant and respondent have one week to submit a signed, written appeal of no more than 2,000 words to the FAS Dean on the following grounds:
 - 1) A procedural irregularity that affected the outcome of the decision;
 - 2) New evidence that was not available at the time, that could affect the decision.
 Disagreement with the reason(s) for the finding(s) is not, by itself, a ground for appeal.
9. The FAS Dean determines actions to take based on the findings. In the case of a finding of a violation of policy, the Dean, or their designee, decides what sanctions should be imposed.¹⁵
10. The investigator and FAS administration will endeavor to conclude the process within 90 days from the commencement of the investigation, taking into account the academic calendar, or the availability of witnesses, or for other legitimate reasons.

Privacy: All parties, including witnesses, will be reminded of the expectation that complaints and other activities under these procedures will be private and will be shared only with those with a legitimate need to know in order to complete the investigation and take appropriate remedial action if warranted.

Anonymity: Parties who want to remain anonymous are encouraged to discuss their concerns with the [University Ombudsman Office](#). Those who don't feel comfortable identifying themselves and want to remain anonymous are encouraged to report issues through the [University reporting hotline and website](#).

¹⁵ Sanctions may include but are not limited to such measures as: reduction in access to resources, reduction in oversight duties, reduction in salary, mandatory coaching and training, unpaid leave, or recommendation of tenure termination.

Multiple Complaints: The Dean for Faculty Affairs and Planning, in consultation with the investigator, may elect to consolidate investigations of similar or related complaints regarding this or other University Policies into one investigation.

Jurisdiction: These Policies and Procedures apply to unprofessional conduct that is committed by FAS faculty and researchers, including, but not limited to Postdoctoral Fellows, Research Associates, Teaching Assistants, Instructors, Proctors, Visiting Scholars, Department or Program Fellows, and Special Appointees, whenever the misconduct falls outside of the scope of [FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct](#), or [Research Misconduct Policies](#), and occurs

1. On Harvard property
2. Off Harvard property if:
 - a. The conduct was in connection with a University program, a University-recognized program or activity, or another work-related activity such as attending a conference, conducting research in the field, providing expertise to policymakers, presenting a talk at another institution, etc.
 - b. The conduct may have the effect of creating a hostile or abusive environment for a member of the University community.

We additionally recommend that policies be aligned across different sections of the University, as many members of the community have affiliations that span multiple parts of the University. For these individuals, including a large population of GSAS students who are cross-affiliated between GSAS and the Medical School, it is ambiguous which policies apply to them. Jurisdiction would be streamlined if the university adopted common policies.

Related Policies: Non-Retaliation, Whistleblower: All parties will be reminded of the FAS and the University's Non-Retaliation¹⁶ and Whistleblowing Policy¹⁷ under which the University will protect members of the Harvard community who make good faith reports of suspected violations of law or University policy from retaliation. Retaliation against an individual for raising an allegation, for cooperating in an investigation of such a complaint, or for opposing prohibited practices is prohibited. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited.

Legal Considerations and Advisors: These are academic, not legal, procedures. Any information that the investigative team deems relevant and trustworthy may be considered; legal rules of evidence do not apply. Although parties may seek legal advice, attorneys will not accompany individuals to interviews. Parties may bring an advisor to interviews for personal support and general advice. Advisors should be an officer of the University and should not have any other involvement in the process. Advisors may not speak for their advisees during interviews; advisees may ask for a short break to consult privately with their advisor.

¹⁶ <https://hr.harvard.edu/staff-personnel-manual/general-employment-policies/non-retaliation>

¹⁷ <https://hr.harvard.edu/staff-personnel-manual/general-employment-policies/whistleblowing-policy>

When the allegations, if true, might constitute criminal conduct, the respondent is hereby advised to seek legal counsel before making any written or oral statements. Respondents may wish to obtain legal advice about how this process could affect any case in which they are or may become involved.

Supportive measures are individualized services designed to restore or preserve access to the University's education programs or activities.

The Office for Faculty Affairs in conjunction with the Dean of the FAS or the FAS Academic Deans may implement supportive measures to protect Harvard community members. There are two types of measures:

1. Measures that primarily impact the community member seeking the support (e.g., a graduate student seeking to change advisors). These can be implemented without talking with the faculty member whose alleged behaviors have impacted the party seeking support.
2. Measures whose primary effect will be felt by both the community member seeking support and the faculty member whose alleged behaviors have impacted the party seeking support (e.g., placing the faculty member on paid administrative leave, pausing the hiring of researchers by a Principal Investigator). In this case, an anonymized summary of the feedback received is shared with the faculty member whose alleged behaviors have impacted the party seeking support.

2. Training/Expectations

As mentioned at the start of Section IV.B, community feedback about professional conduct ran the gamut from descriptions of abusive/bullying behavior to behavior that was described as ineffective, rather than malicious or bullying. FAS community members were sympathetic to the many roles that faculty take on, particularly managerial roles for which they may not have been trained. For example, faculty may not be trained in best practices for giving feedback, managing staff, or running a lab. Additionally, bad habits may be passed down from senior faculty to junior faculty, perpetuating an environment that is not as effective as it can be for students, researchers, and staff. To address this, community members stated that we need trainings that go beyond basic policies and that focus on developing a culture where everyone can do their best work. In particular, they cited the following topics for training:

- As mentioned in Section IV.A.5 (“Unwelcome culture regarding sexual assault and misconduct”), bystander training is both necessary and desired.
- Providing constructive feedback and in the appropriate settings
- Setting clear, reasonable expectations (e.g., providing a lab manual that is signed by both the faculty member and all members of the lab)
- Understanding that people have different working styles and may not produce their best work under a proscriptive management style
- Setting boundaries regarding personal duties, working hours, etc.

- Understanding the power faculty wield and how it affects their interactions with students, staff, and researchers.

Recommendations

We recommend expanding management training for faculty.

We support the GSAS Advising Project as an important part of improving the learning experience.

Where appropriate, we recommend developing a mentoring compact/lab compact, or similar document, to clearly articulate the expectations for staff, students, or researchers working under a faculty member's direct supervision.

Finally, we recommend including in graduate student and post-doctoral researcher orientations a training to educate them on what appropriate and productive faculty-researcher relationships look like and how to recognize bullying behavior.

C. Departmental Support and Data Tracking

In this section, we discuss departmental support and data tracking, which are relevant to both sexual harassment and misconduct and professional conduct.

1. Departmental support

Departments are very often the first line of support for community members who have experienced, or are experiencing, sexual harassment or misconduct or professional misconduct issues. Faculty and staff who have experienced such situations report the following.

- Departments feel powerless because they lack information.
 - Sometimes departments don't know that allegations have been made, as allegations go directly to the Title IX Office. Even when departments do know about allegations, they feel they can't use that information to protect people who might be harmed (e.g., they feel they can't inform people who work with the faculty member).
 - Because of due process and the siloing of information, departments also may not know if an investigation is ongoing. If they do know, large pieces of the process are not shared with them, and/or departmental leaders may be told that that they should say nothing to the community (even whether or not the investigation exists), because the investigation is in progress. This makes it impossible for departmental leaders to support those going through the process, which may last for many months, and to protect others from future incidents. Moreover, this silence on the department's part can coexist with vocal self-defense from the respondent, which can bias other students' view of the case and also contribute to the perception that the department does not adequately support its students.

Because of such circumstances, departments are concerned about how to govern effectively, while respecting confidentiality and due process. Departments have also asked if the circle of who “needs to know” should be rethought. They feel as though they are “conduits,” but that their agency as governors is undercut.

- Even as departments lack information, students and trainees may think the faculty know more than the faculty actually know. Students and trainees also often feel departments can do more than they are actually able to do. Consequently, a lack of trust has developed between faculty and students/trainees. There needs to be more communication in general, so that people are aware that departments take these issues seriously, even as there may be limits to what they know or can do.
- Departments need more guidance on what they should do to handle certain concerns, particularly those that are not necessarily Title IX-related, but are professional misconduct more generally.
- While community members understand the need for mandatory reporting, there is a concern that faculty members’ status as mandated reporters could deter students from bringing an issue to them. In addition, many faculty are ill-prepared to manage the logistical and emotional aspects of this kind of disclosure.
- Departments want more latitude to put supportive measures into place locally.

Recommendations

The Committee recommends the following actions to support departments:

- Departmental leadership should be kept in the loop on what is happening in their departments.
- There should be increased training for department chairs on how to handle Title IX and professional conduct issues.
- The administration should more clearly communicate that it can implement many supportive measures and show humanity for an affected community, while allowing processes to follow their course and not interfering with due process. E.g., The administration should show support for departmental communities that are dealing with difficult issues by joining departmental leadership in town hall discussions and other forums.
- Whenever possible, department leadership should be encouraged to act locally to support their community, with advice from Program Officers for Title IX and Professional Conduct. Chairs can do a great deal to support their communities. The administration should provide a list of examples of things that departments can do before, during, and after complaints to support people who are concerned about the conduct of a faculty member.

2. Data tracking

Community members recommended better data tracking by the FAS when allegations of sexual or professional misconduct are brought forward. Specifically, people cited the following issues:

- One problematic person can cause problems in multiple areas around the University. This phenomenon, known as “pass the harasser,” creates problems for departments and contributes to a perception that faculty have no accountability for their actions.
- Complaints that do not lead to an official investigation are not tracked in the same way as complaints that do. Thus, a person could be involved in multiple informal complaints before being tracked in a formal investigation. Tracking all incidents together would provide a fuller and more accurate picture for all involved.
- Because community members never see what infractions lead to what sanctions, they often feel that nothing was done about a situation. Many community members feel that anonymized reporting of outcomes would give the community evidence that accountability exists.

Recommendation

Program Officers for Title IX and Professional Conduct should keep centralized notes about allegations that come to them. This will allow them to recognize patterns of behavior.

V. Appendices

- A. Prohibited Relationships, current policy, from the “[Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct](#)”
- B. Affirmative consent policies at peer institutions

A. Prohibited relationships, current policy, from the “[Interim FAS Policies and Procedures Addressing Title IX Sexual and Gender-Based Harassment and Other Sexual Misconduct](#)”

		Faculty					Staff		Research		Students		
		Tenured	Tenure-track	Non-ladder	Visiting	TA/TF	Student-facing	Non-student facing	PI	Non-PI	Undergraduates	Graduates	Extension
Faculty	Tenured									X	X	X	
	Tenure-track									X	X	X	
	Non-ladder									X	X	X	
	Visitor									X	X	X	
	TA/TF									X	X	X	
Staff	Student-facing					X	X			X			
	Non-student facing					X	X						
Research	PI									X	X	X	
	Non-PI (Post Docs, Fellows, RAs etc)									X	X	X	
Students	Undergraduates	X	X	X	X	X	X		X	X	X	X	X
	Graduates	X	X	X	X	X			X	X	X	X	X
	Extension	X	X	X	X	X			X	X	X	X	X

X= prohibited in all cases

X=Prohibited when one party has academic responsibility over the other (not necessarily supervisory)

X=May require HR authorization

X=Prohibited for specific roles (e.g., resident tutor/freshman proctor)

B. Affirmative Consent Policies at Peer Institutions

Institution	Policy	Link
Princeton	<p>Consent and Incapacitation. The University considers consent as a voluntary, informed, un-coerced agreement through words or actions freely given, which could be reasonably interpreted as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.</p> <p>Indications that consent is not present include: when physical force is used or there is a reasonable belief of the threat of physical force; when duress is present; when one individual overcomes the physical limitations of another individual; and when an individual is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the individual is in a state of incapacitation.</p> <p>Important points regarding consent include:</p> <ul style="list-style-type: none"> - Consent to one act does not constitute consent to another act. - Consent on a prior occasion does not constitute consent on a subsequent occasion - The existence of a prior or current relationship does not, in itself, constitute consent. - Consent can be withdrawn or modified at any time. - Consent is not implicit in an individual’s manner of dress. - Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent. - Silence, passivity, or lack of resistance does not necessarily constitute consent. - Initiation by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent. <p>For purposes of this policy, incapacitation (or incapacity) is the state in which an individual’s perception or judgment is so impaired that the individual lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where an individual knows or ought reasonably to have understood that the individual is incapacitated, constitutes Title IX Sexual Harassment as defined by this policy.</p>	<p>https://inclusive.princeton.edu/addressing-concerns/policies/title-ix-sexual-harassment-policy#TIXPSection2</p>

<p>Yale</p>	<p>Under Yale’s policies, sexual activity requires affirmative consent, which is defined as positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent cannot be inferred merely from the absence of a “no.” A clear “yes,” verbal or otherwise, is necessary. Consent to some sexual acts does not constitute consent to others, nor does past consent to a given act constitute present or future consent. Consent must be ongoing throughout a sexual encounter and can be revoked by any participant at any time.</p> <p>Consent cannot be obtained by threat, coercion, or force. Agreement under such circumstances does not constitute consent. Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated due to alcohol, drugs, or some other condition. A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual activity with a person whom you know—or reasonably should know—to be incapacitated constitutes sexual misconduct.</p>	<p>https://smr.yale.edu/find-policies-information/yale-sexual-misconduct-policies-and-related-definitions</p>
<p>Stanford</p>	<p>Consent is an affirmative nonverbal act or verbal statement expressing consent to sexual activity by a person that is informed, freely given and mutually understood. It is the responsibility of person(s) involved in sexual activity to ensure that he/she/they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. Lack of protest or resistance does not mean consent, nor does silence mean consent. Consent to one act by itself does not constitute consent to another act. The existence of a dating relationship between the persons involved, or the fact of past sexual relations, should never by itself be assumed to be an indicator of consent. Whether one has taken advantage of a position of influence over another may be a factor in determining consent.</p>	<p>https://sexualviolencesupport.stanford.edu/policies/key-definitions</p>

<p>Brown</p>	<p>Consent is an affirmative and willing agreement to engage in specific forms of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely chosen to engage in sexual contact. Consent cannot be obtained through: - 7 - (1) manipulation; or (2) the use of coercion or force; or (3) by taking advantage of the incapacitation of another individual. Silence, passivity, or the absence of resistance does not imply consent. It is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and clarifies the other's willingness to continue. Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must cease. Prior consent does not imply current or future consent; even in the context of an ongoing relationship, consent must be sought and freely given for each instance of sexual contact. An essential element of consent is that it be freely given. Freely given consent might not be present, or may not even be possible, in relationships of a sexual or intimate nature between individuals where one individual has power, supervision or authority over another. More information, policy and guidance regarding such relationships can be found below. In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances, including but not limited to the extent to which a complainant affirmatively uses words or actions indicating a willingness to engage in sexual contact, free from manipulation, intimidation, fear, or coercion; whether a reasonable person in the respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the respondent, demonstrating incapacitation or fear.</p>	<p>https://www.brown.edu/web/documents/title-ix/brown-university-title-ix-policy.pdf</p>
<p>MIT</p>	<p>MIT students who engage in sexual behavior of any kind are expected to do so only with the effective consent of all parties involved. Doing otherwise constitutes sexual misconduct and is a violation of this policy.</p> <p>Consent is ultimately about respecting another's autonomy to make choices about their own body, their own boundaries, and their own behavior. The fundamental purpose of the Institute's sexual misconduct policy is to reinforce the expectation that individuals give and receive this respect in their sexual interactions.</p> <p>Given the importance of sexual autonomy and the potential impact on those subjected to nonconsensual sexual activity, the Institute places the responsibility for obtaining effective consent on the person who initiates the sexual activity. That responsibility is significant.</p> <p>The Institute recognizes that there are a wide variety of sexual interactions, that there is no single way to communicate consent, and that context matters. At all times, each party</p>	<p>https://handbook.mit.edu/sexual-misconduct</p>

is free to choose where, when, and how they participate in sexual activity. Accordingly, when evaluating whether sexual activity was consensual, the Institute will consider the entirety of the sexual interaction and the relevant circumstances.

Effective Consent is:

- informed
- freely and voluntarily given
- mutually understandable words or actions which indicate willing participation in mutually agreed upon sexual activity.

Further:

By definition, effective consent cannot be obtained by

- unreasonable pressure, which can generally be understood as conduct that pressures another person to “give in” to sexual activity rather than to choose freely to participate; factors that may be considered include (1) the frequency, nature, duration, and intensity of the requests for sexual activity; (2) whether and how previous requests were denied; and (3) whether the person initiating the sexual activity held a position of power over the other person;
- emotional intimidation, which can include (1) overtly degrading, humiliating, and shaming someone for not participating in sexual activity; (2) blackmail; and (3) threats to reputation;
- physical intimidation and threats, which can be communicated by words or conduct, and physical force.

Effective consent cannot be obtained from someone who is incapable of giving consent for any reason, including when:

- the person has a mental, intellectual, or physical disability that causes the person to be temporarily or permanently unable to give consent;
- the person is under the legal age to give consent;
- or the person is asleep, unconscious, physically helpless, or otherwise incapacitated, including by alcohol or other drugs.

<p>Columbia</p>	<p>Affirmative Consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity.</p> <ul style="list-style-type: none"> • Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. It is important not to make assumptions about consent. If there is confusion or ambiguity, participants need to stop sexual activity and communicate about each person’s willingness to continue. • Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, or coercion. • Consent cannot be obtained from, or given by, a person who is incapacitated. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. • Consent to engage in sexual conduct with one person does not imply consent to engage in sexual conduct with another person. • Silence or the lack of resistance, in and of itself, does not demonstrate consent. Again, it is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and clarifies the other’s willingness to continue engaging in the sexual conduct. • Consent can be withdrawn at any time, including after it is initially given. When consent is withdrawn or can no longer be given, sexual activity must stop. • Previous relationships or previous consent for sexual activity is not consent to sexual activity at another time. However, established patterns of consent in a specific relationship may be considered when evaluating whether affirmative consent was given on a particular occasion. • Accepting a meal, a gift, or an invitation to socialize, including on dating apps, does not imply or constitute consent to sexual activity. • The definition of consent does not vary based on a participant’s sex, sexual orientation, gender identity, gender expression or relationship status. 	<p>http://www.columbia.edu/cu/studentconduct/documents/GBMITIXPoliciesAndProceduresforStudents.pdf#page=20</p>
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