

Berklee College of Music

Workplace Discrimination and Sexual Harassment Policy

POLICY

It is the policy of the Berklee College of Music to maintain a working and learning environment that is safe, respectful, productive and free from sexual harassment and any other unlawful discrimination. Any form of unlawful discrimination or harassment, based on race, color, religion, gender, national origin, age, disability, military or veteran status, sexual orientation, genetic information, marital status, pregnancy or any other characteristic protected by applicable law, is strictly prohibited.

The college, as well as state and federal laws, prohibits retaliation against any person who, in good faith, reports, assists in reporting or participates in an investigation of possible discrimination or harassment. Any person who retaliates against such an individual will be subject to the college disciplinary procedures up to and including expulsion or termination of employment by the college

This document describes the process by which staff, faculty and students can report prohibited conduct and how complaints will be addressed by the college.

DEFINITIONS

Sexual Harassment

Sexual harassment is a form of sex discrimination that violates federal and state laws as well as college policy. Berklee College of Music, its faculty, staff, customers and suppliers and students shall be held responsible for their acts of discrimination and sexual harassment and are subject to appropriate disciplinary action and may be held personally liable.

Sexual harassment, whether between people of different sexes or of the same sex, is defined to include, but is not limited to, unwanted sexual advances, unwelcome requests for sexual favors, and other behavior of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term and condition of an individual's academic status or employment; or
2. Submission to, or rejection of, such conduct by an individual is used as a basis for employment or academic decisions affecting him or her; or
3. Such conduct, whether verbal or physical, has the purpose or effect of unreasonably interfering with the individual's academic or work performance or of creating an intimidating, hostile, or offensive environment in which to work or to learn.

Sexual harassment can involve:

- Teacher and student
- Supervisor and employee
- Teacher and teacher
- Student and student
- Staff member and student
- Other relationships among colleagues, peers, and coworkers
- Service providers and vendors of the College

The following behavior may constitute sexual harassment:

As stated by the Massachusetts Commission Against Discrimination (MCAD):

“While it is not possible to list all those additional circumstances that outline sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness”:

- Lewd remarks, whistles, or personal reference to one’s anatomy
- Unwanted physical contact such as patting, pinching, or constant brushing against a person’s body
- Subtle or overt pressure for sexual favors
- Persistent and offensive sexual jokes and comments
- Persistent and unwanted requests for dates
- E-mail messages of an offensive sexual nature

Other Unlawful Harassment and Discrimination

The law also prohibits a hostile educational or work environment based on any legally-protected class, which includes race, color, national or ethnic origin, ancestry, sex or gender, religion, age, physical or mental disability, sexual orientation, genetic information, military or veteran’s status and any other characteristic protected by state or federal law. In its effort to prevent unlawful harassment or discrimination the college prohibits negative or stereotyping jokes and demeaning or derogatory comments about any of these protected groups in any manner that may affect the work and educational environment.

PROCEDURES

There are two different processes for resolving harassment and discrimination complaints. They are the informal resolution and formal resolution processes:

Informal Resolution

Any member of the Berklee community who believes that he/she has been harassed may first attempt to resolve the problem through discussion with the other party. When discussing the problem with that person would present particular stress or difficulties, the complainant has the right to consult with a college workplace discrimination and sexual harassment resource person listed in this statement for consultation and assistance with resolution of the problem on a timely basis. Conclusion of an informal proceeding ordinarily should be sought within three weeks of the beginning of informal proceedings. However, the complainant has the right to institute formal proceedings at anytime during this process.

Formal Resolution

If the problem has not been resolved to the satisfaction of the complainant through the informal process, she or he has the right to file a formal complaint in accordance with the following procedure.

A complainant has the right to institute formal proceedings without first availing him or herself of the informal procedure.

Where to file a complaint:

If the person alleged to be responsible for the harassment or discrimination is:

1. A student – file with the assistant vice president of student affairs for student development.
2. A staff member or an administrator – file with the assistant vice president for human resources.
3. A faculty member – file with the associate provost.

What to include in a formal complaint:

The complaint should be reduced to writing by the complainant and should set forth the facts upon which the harassment complained of is based, the person alleged to be responsible, the names of the witnesses and the resolution sought.

When to file a complaint:

Students

The complaint should normally be filed within 14 calendar days of the incident(s) giving rise to the complaint. The college may extend this period if it finds that there are extenuating circumstances.

Staff

The complaint should normally be filed within 14 calendar days of the incident(s) giving rise to the complaint. The college may extend this period if it finds that there are extenuating circumstances.

Faculty

Faculty should file complaints in accordance with the union contract.

How a complaint will be processed:

Students

1. If the charged party is a student, the written complaint should be filed with the assistant vice president of student affairs for student development (AVPSA-SD).
2. The AVPSA-SD, upon receiving the complaint, will immediately notify and provide a copy of the written complaint to the charged party and request that he/she submit a written response to the charges within ten (10) working days. Response to a complaint is required and will be pursued to see that it is obtained in a timely fashion. Also, the AVPSA-SD will immediately notify in writing the Title IX coordinator that a complaint has been filed.
3. Upon receiving the written response from the charged party, the AVPSA-SD will attempt to resolve the situation through discussion, investigation, or other steps that he or she feels is necessary. The complainant and the charged party will be informed in writing by the AVPSA-SD (or his or her designee) of the results of the investigation and any action to be taken.
4. The AVPSA-SD will send a summary report to the Title IX Coordinator, as described in the section below titled "Centralized Reporting and Coordination."

Staff

1. If the charged party is a staff member or administrator, the written complaint should be filed with the assistant vice president for human resources (AVPHR).
2. The AVPHR, upon receiving the complaint, will immediately notify and provide a copy of the written complaint to the charged party and request that he or she submit a written response to the charges within ten (10) working days. Response to a complaint is required and will be pursued to

see that it is obtained in a timely fashion. Also, the AVPHR will immediately notify in writing the Title IX Coordinator that a complaint has been filed.

3. Upon receiving the written response from the charged party, the AVPHR will attempt to resolve the situation through discussion, investigation or other steps that he or she feels is necessary. The complainant and the charged party will be informed in writing by the AVPHR (or his or her designee) of the results of the investigation and any action to be taken.
4. The AVPHR will send a summary report to the Title IX coordinator, as described in the section below titled “Centralized Reporting and Coordination.”

Faculty

If the charged party is a faculty member, the complaint will be handled in accordance with the union contract

Within the constraints of the academic schedule, the AVPs listed above will strive to conclude the investigation within thirty (30) working days from the date the original formal complaint was filed or as soon as practical depending upon schedules and availability. The associate provost will follow the time limits as outlined in the union contract.

**Note: the time limits mentioned in this policy are intended as reasonable amounts of time for specific activities to occur. The appropriate college officials may adjust the time lines at their option, while attempting to ensure a fair and equitable process for all parties.*

Confidentiality

The college recognizes that all individuals involved in processing the complaint may want their identity to remain confidential. However, issues of confidentiality must be balanced against the college’s need to process the complaint and to resolve the problem.

Central reporting and coordination

Title IX regulations of the Education Amendments of 1972 require all college personnel to report any case of sexual harassment whether resolved informally or formally through the complaint procedure to the college’s Title IX coordinator. (The role and responsibilities of the Title IX coordinator are assigned to the vice president for student affairs, as noted under the following section entitled “Where to Find Help.”)

Such reports should not include the names or identities of the persons involved. They should include, however, a description of the complaint and the divisions or administrative units with which the participants are affiliated. Reports from decentralized areas will allow the Title IX coordinator to identify patterns of frequency in a particular area or location within the College and report these findings to the president, as necessary.

Berklee College of Music encourages anyone who believes he or she has been subjected to harassment or discrimination to use the procedures described above. In addition or instead, they may also file a formal complaint with the appropriate government agencies.

For the Student Community:

Complaints of discrimination or sexual harassment may be filed directly with the US Department of Education:

U.S. Department of Education

Office for Civil Rights

Post Office Square

Boston, MA 02109

617 223-9662

(Statute of Limitations = 180 days)

<http://www.ed.gov/offices/OCR/sexharassresources.html>

For College Employees:

Complaints of sexual discrimination or sexual harassment may be directed to:

Equal Employment Opportunity Commission

JFK Building

Room 475

15 New Sudbury Street

Boston, MA 02203

617 565-3200

(Statute of Limitations 300 days)

Massachusetts Commission Against Discrimination

One Ashburton Place

Boston, MA 02108

617 727-3990

(Statute of Limitations = 300 days)

Where to find help

The following is a list of the Workplace Discrimination and Sexual Harassment Resource Persons available to the college community:

Title IX Coordinator

Lawrence E. Bethune, Vice President for Student Affairs
617-747-2231, lbethune@berklee.edu

Human Resources Office

Nancy L. Eagen, Assistant Vice President for Human Resources
617-747-2326, neagen@berklee.edu

Dean of Students Office

Dr. Stefanie Sullivan, Assistant Vice President of Student Affairs
617-747-2268, ssullivan@berklee.edu

Housing Office

Randall Bird, Residence Life Coordinator
617-747-2253, rbird@berklee.edu

Student Activities Office

Rebecca Tortorella, Director
617-747-8642, rtortorella@berklee.edu

Students seeking confidential support, guidance and counsel may contact any of the counselors in the Counseling and Advising Center. These people are very knowledgeable about harassment procedures, although they are not serving as Berklee College of Music workplace discrimination and sexual harassment resource persons.

Counseling Center

Access to all counselors
Sara Regan, Director of Counseling and Advising Center
617-747-2311, sregan@berklee.edu