

Office for Institutional Equity Procedures for Investigating Complaints of Discrimination and Harassment

I. Introduction

The University is committed to address allegations and suspected instances of discrimination and/or harassment in accordance with applicable law and policies. The Office for Institutional Equity is ultimately responsible for appropriately investigating all complaints of discrimination and/or harassment. In some instances appropriately trained units or individuals may be delegated authority to investigate in partnership with the Office for Institutional Equity.

Any employee, student, campus visitor or person participating in a university activity, whether on or off-campus, who believes he or she has experienced or witnessed discrimination and/or harassment is encouraged to report the incident(s) promptly. While all individuals are encouraged to report, certain individuals are required to do so in accordance with applicable laws and policies. Prompt reporting of complaints is vital to the University's ability to resolve the matter.

The University reserves the right to investigate circumstances that may involve discrimination and/or harassment where no complaint has been filed. In situations where a complainant is reluctant to proceed, the complainant will be notified in advance when such action is necessary. In such situations, the University may elect to investigate and, if warranted, impose disciplinary sanctions pursuant to established University policies, procedures and where appropriate, collective bargaining agreements.

In the event that circumstances involve potential criminal conduct, the University will determine whether it is necessary to notify law enforcement and/or other authorities. If a criminal investigation and/or a criminal proceeding are commenced, the University will continue to conduct its own investigation and will still take immediate and prompt steps that it deems necessary to protect the University community.

The University also reserves the right to take provisional actions departing from these Procedures, including but not limited to any and all necessary and immediate steps to protect a complainant or the University community. Such actions may include taking interim steps before the determination of the final outcome of an investigation; however, the respondent will be given the notice and opportunity to respond as specified in the herein Procedures.

Inquiries and complaints about discrimination and/or harassment may be brought to the Office for Institutional Equity. The management of all complaints of discrimination and/or harassment, regardless of where they are initially received, and the implementation of these procedures is the responsibility of the Office for Institutional Equity.

II. Definitions

Advisory Committee

The committee selected by the Hearing Officer upon appointment by the Director of the Office for Institutional Equity to advise the Hearing Officer pursuant to Section VIII of these Procedures. The committee members serve in an advisory role at the discretion of the Hearing Officer after completing training approved by the Office for Institutional Equity.

Complainant(s)

A person or persons making a complaint under these Procedures.

Days

Working days.

Hearing Officer

The Vice President of Student Affairs/ Vice President of Student Affairs' designee when a student has submitted a matter for further determination.

Investigator

A person designated to investigate a complaint pursuant to these Procedures.

Procedures

The procedures set forth in this document.

Respondent

The person or persons whose conduct is the subject of concern under these Procedures.

III. General Provisions

These Procedures apply to all complaints of discrimination and/or harassment (including Title IX), whether the parties are students, recognized student organizations, employees, campus visitors or persons participating in a university activity. Employees who are students involved in activities subject to these Procedures may be treated either as students, employees or both at the sole discretion of the University. Student employees will be treated as students. Allegations of discrimination and/or harassment involving only students acting in their capacities as students will be adjudicated under these Procedures only and not under the Code of Student Conduct. If a dispute as to which policy/procedure will address discrimination and/or harassment, the final decision regarding which policy/procedure will be used for the investigation and determination will be made by the Chief Compliance Officer.

To protect both the complainant and the respondent, complaints of discrimination and/or harassment will be treated with the greatest degree of confidentiality possible. Complainants and respondents are advised, however, that confidentiality can only be respected insofar as it does not interfere with the University's obligation to investigate allegations of misconduct that require it to take corrective action and comply with obligations under the Ohio Public Records law.

If necessary, the Office for Institutional Equity will work with the appropriate department/unit to assist the complainant in making reasonable efforts to avoid contact with the respondent(s) by adjusting the workplace or academic arrangements and/or, in the case of a student, campus living arrangements. Such interim measures will be finally decided and imposed by the administrator with direct supervisory responsibility over the party; i.e. if an interim measure is to be taken with respect to a student, the VP of Student Affairs will make a final determination as to the measure and be responsible for implementing it; if the interim measure is to be taken with respect to an employee, the Chief HR Officer will make a final determination as to the measure and be responsible for implementing it; to the extent that an interim measure is to be taken with respect to a vendor, the appropriate AVP will make a final determination as to the measure and be responsible for implementing it. To the extent that agreement cannot be reached among administrators, or interim measures will be taken against a combination of students, employees and vendors, the Provost shall have final determination as to the interim measures. The Office for Institutional Equity will inform all parties of the interim measures to be taken.

The complainant or respondent may have an advisor or support person present at any point in these Procedures to provide advice or support directly to the complainant or respondent. An advisor or support

person may not however, stand in place of either the complainant or the respondent, or otherwise participate in the investigation process.

All employees, students and University agents or representatives have an obligation to cooperate with these Procedures. Failure to do so may result in disciplinary action. In the event that a complainant does not cooperate by failing to furnish information requested by the investigator or to make himself or herself available for interview per an investigation, the Director of the Office for Institutional Equity may dismiss the complaint within his or her sole discretion. If a complaint is dismissed, written notice of such dismissal shall be provided to the complainant(s) and to the respondent(s). In the event that a respondent does not cooperate by failing to furnish information requested by the investigator or to make himself or herself available for interview by the investigator, the investigator shall conclude the investigation based upon information available at the time.

When extenuating circumstances warrant, the Director of the Office for Institutional Equity has the authority to extend any of the time limits contained in these Procedures except those relating to the filing of complaints or the filing of appeals.

In the event that a complaint concerns the conduct of an employee or student-worker from the Office for Institutional Equity, the Chief Compliance Officer shall designate an individual who shall be responsible for implementing the responsibilities of the Director pursuant to these Procedures. In the event that a complaint concerns the conduct of the Chief Compliance Officer, the President shall designate an individual who shall be responsible for implementing the responsibilities of the Chief Compliance Officer pursuant to these Procedures. In the event that a complaint concerns the President, the Chairman of the Board of Trustees shall be responsible for ensuring the implementation of these Procedures.

IV. Initiating a Complaint of Discrimination and/or Harassment

A. Complaints can be filed by contacting the Office for Institutional Equity or by submitting a completed Discrimination/Harassment Complaint Form to the Office for Institutional Equity. Complaints of discrimination and/or harassment should be filed within 180 calendar days of notice of the event(s) that gave rise to the complaint. When the discrimination and/or harassment is of an ongoing nature, a complaint must be filed within 180 days from the most recent incident. Notwithstanding the foregoing, a complaint relating to alleged discrimination and/or harassment occurring during a complainant's employment by the University must be properly filed within 10 days following termination or separation of the complainant's employment with the University

B. Anonymous complaints will be accepted; however, the University's ability to obtain additional information may be compromised and the ability to investigate or resolve anonymous complaints may be limited.

C. Filing a complaint with the Office for Institutional Equity does not preclude an individual from filing a complaint with an external agency nor does it extend time limits with those agencies. Information regarding filing charges with an outside agency may be obtained from contacting the agency directly or from the Office for Institutional Equity.

D. Individuals who desire to make a complaint of discrimination and/or harassment may:

1. Initiate a conversation with the responsible party or seek to resolve the situation in consultation with an appropriate executive or administrative officer, such as a dean, chair/director; faculty or administrative supervisor; faculty member; coach; or human resources consultant.

2. If the issue is not resolved or if an individual is not comfortable initiating a resolution with a supervisor as identified in Section III.D.1 above, an individual may contact the Office for Institutional Equity or submit a completed Discrimination/ Harassment Complaint Form, available from the Office for Institutional Equity.
3. Provide witnesses and/or documentation from individuals that have first-hand knowledge of the situation.
4. Keep the investigator informed of any new concerns or actions taken against the complaint during the investigation.

V. Responsibilities for Resolving Complaints

A. Duty to Act/Duty to Report

1. Any executive or administrative officers, dean, chair/director; faculty or administrative supervisor; faculty member; coach; or human resources consultant who becomes aware of information that would lead a reasonable person to believe that discrimination and/or harassment has occurred will notify the Office for Institutional Equity, by ensuring that a Discrimination/Harassment Complaint Form or other appropriate documentation is filed within five (5) working days of becoming aware of the information.
2. In addition to the duty to report sexual misconduct to the Office for Institutional Equity as identified above, in some circumstances there is a duty to report allegations of criminal conduct to law enforcement authorities. Ohio law (Ohio Revised Code § 2921.22) requires every person who knows that a felony has been or is being committed, to report it to law enforcement authorities. It is a criminal offense to knowingly fail to make the report. If you suspect or have knowledge of criminal activity occurring on university property, call CSU Police at (216) 687-2111 (in an emergency, please dial 911 immediately). Incidents that occur off campus should be reported to local law enforcement.

B. Supervisors, Managers, Department Chairs/Directors, Human Resources Consultant Responsibilities

1. Assess the situation and attempt timely resolution of issues by notifying and collaborating with the Office for Institutional Equity.
2. Address all concerns promptly and thoroughly.
3. Respect the confidentiality and reputation of all parties to the extent possible.
4. Refer individuals to available University resources if needed.
5. If the situation cannot be successfully resolved, the complaint must be referred within five (5) working days to the Office for Institutional Equity for investigation.

C. Office for Institutional Equity

1. Facilitate informal resolution when appropriate.
2. Conduct all investigations following these guidelines.
3. Maintain data established by policy regarding complaints of discrimination and/or harassment.
4. Collaborate with department/unit to reduce/eliminate instances of discrimination and/or harassment.
5. Communicate investigation findings to the appropriate department/unit or administrator, complainant(s) and respondent(s).
6. Recommend appropriate actions steps and/or corrective/preventative measures.
7. Monitor action steps and/or corrective measures to ensure behavioral change and compliance.

VI. Investigating Complaints of Discrimination or Harassment

The Discrimination/Harassment Complaint Form/documentation will initiate the Office for Institutional Equity's coordination to determine how to proceed with addressing any potential discrimination/harassment concerns. Within three (3) working days following receipt of the Complaint Form/documentation, the Director of the Office for Institutional Equity will assign an investigator to investigate the complaint.

VII. Investigator Duties

A. Investigations will be a collaborative effort between the department/unit and the Office for Institutional Equity whenever possible. Individuals will be informed of the investigation and its progress on a timely basis. Prompt notification of a complaint will be provided by the Office for Institutional Equity to the respondent(s), to the department head or supervisor and to the appropriate Vice President, Dean or head of department/unit by delivery of a copy of the complaint through hand delivery, regular U.S. Mail or electronic communication. In the event the respondent is a student or recognized student organization, the Dean of Students is the appropriate Dean.

B. The investigator will discuss the following with the complainant:

1. The complainant may:
 - a. File a complaint with the Office for Institutional Equity, and/or
 - b. File a grievance under the nondiscrimination clause of the appropriate collective bargaining agreement, if applicable.

C. The investigator will discuss the following with the complainant and respondent:

1. The behaviors and any related issues that gave rise to the complaint.
2. The policy under which the complaint is brought and these investigation Procedures. Copies of both will be provided.
3. The manner and frequency with which they will be updated about the status of the investigation.

4. The importance of confidentiality during the investigation. To the extent possible, the University will make every reasonable effort to conduct all proceedings in a manner that will protect the confidentiality of all parties. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.

5. The prohibition of retaliation by University policy.
6. Upon conclusion of the investigation, records may be made available to the extent mandated by law.

D. The investigator will ensure that the Discrimination/Harassment Complaint Form is completed. A written complaint form is not necessary if sufficient information has been provided to the investigator to allow an investigation to proceed.

E. The investigator, in collaboration with the appropriate department/unit representative, will determine if special provisions are necessary to ensure that no discrimination/harassment occurs against the complainant while the investigation is pending.

VIII. Investigation Process

A. The purpose of the investigation is to evaluate the allegations of discrimination and/or harassment, formulate a response that addresses the facts as they are determined.

1. The notification to the respondent(s) will include a copy of the complaint, a copy of relevant University policy and these Procedures.

2. The respondent(s) will be requested to respond in writing to the complaint within a reasonable time, not to exceed seven (7) working days from the date of hand delivery, regular U.S. Mail or electronic communication of the notification of the complaint. Any extension of time must be approved by the Director of the Office for Institutional Equity. A copy of the respondent(s)'s response will be provided to the complainant.

B. Depending on the facts and circumstances of the case, an investigation may range along a continuum from a one-on-one conversation with the respondent with an agreement as to further interactions; to an inquiry with several witness interviews. During the investigation, the investigator will conduct a thorough fact-finding investigation and may interview complainant(s), respondent(s), pertinent witnesses who have first-hand knowledge of the events and gather relevant documents. After analyzing all the information, the investigator will prepare a written summary with findings and recommended action steps and/or sanctions, if any, to be implemented by the complainant(s), respondent(s) and department/unit. Prior to the release of the report, the Director of the Office for Institutional Equity, if he/she is not the investigator in the matter, will review the report and discuss with the investigator any procedural issues, the specific findings and necessary actions steps. In every case, a record must be made of the allegations, investigation, and action taken.

C. Investigations should be concluded within a reasonable timeframe, ideally thirty (30) calendar days or less, from the date the complaint was filed. If this is not reasonably possible due to extenuating circumstances, the investigator should inform the complainant(s) and respondent(s) of the status of the review and an estimated conclusion date. The Director of the Office for Institutional Equity has the authority to extend any of the time limits in these Procedures except those relating to the filing of complaints or the filing of appeals.

D. The investigator will prepare a written summary of the outcome of the investigation.

1. No violation of University policy will be found unless a preponderance of the evidence standard supports the finding of a violation. It is possible that while no violation of University policy is found, there was inappropriate conduct which occurred for which remedial and/or preventative action is necessary.

2. The report will include the basis upon which the investigator reached his or her conclusions.

3. The report will also include the investigator's determination of whether or not a violation of any University policy has occurred and a recommendation of the sanctions to be imposed, if any.

E. An investigation may result in one of the following findings:

1. A determination that there is sufficient evidence of a violation of university policy.

2. A determination that there is insufficient or no evidence of a violation of university policy.

3. A determination that inappropriate conduct has occurred.

4. A determination that there is sufficient evidence to indicate that an allegation is false.

F. A false allegation occurs when someone knowingly, or with reckless disregard for the truth, make a false report of discrimination and/or harassment or of retaliation, or gives false information during an

investigation, proceeding or hearing. A person acts with reckless disregard for the truth when the person knows that the report or information given could have serious consequences, but makes no effort to determine whether it is true, or is indifferent to whether it is true. It is not a violation of policy to make a report in good faith about suspected discrimination and/or harassment or suspected retaliation that is based on a reasonable belief that the conduct has both occurred and is discrimination and/or harassment, even if, upon investigation, the report is not substantiated.

G. At the conclusion of the investigation, the investigator will inform complainant, respondent and the appropriate department/unit or administrator of the outcome and rationale.

H. If discrimination, harassment, false allegation, inappropriate behavior, or other policy violation occurred, the Office for Institutional Equity will work with the appropriate department/unit to take necessary action steps to correct the behavior. The necessary action steps could include disciplinary action, action to remedy adverse effect from the violation, or action to prevent the recurrence of a violation.

I. The department must take prompt remedial action consistent with the severity of the offense, if any, and all applicable University rules and regulations.

1. For professional staff employees, refer to the Professional Staff Personnel Policies.
2. For bargaining unit employees, refer to the appropriate collective bargaining agreement.
3. For students, measures may be imposed in accordance with the Section VIII and Section IX of these Procedures.

IX. Appeal

A. A complainant, who is a student, or a respondent, who is a student, may appeal the outcome of the investigation for any of the following reasons: the investigator was biased or had a conflict of interest; there was procedural error in the investigation; there is previously unavailable relevant evidence that could significantly impact the outcome or the recommended sanction is substantially disproportionate towards the respondent.

B. An appeal must be submitted to the Hearing Officer within five (5) working days of the issuance date of the investigator's report.

C. Within ten (10) working days from the issuance of the report, the Hearing Officer will convene a meeting to consider the appeal.

1. A complainant or a respondent can seek to have a Hearing Officer replaced on the basis that bias or a conflict of interest exists by presenting the issue to the Chief Compliance Officer at least two (2) working days before the meeting. If the Chief Compliance Officer agrees, a new Hearing Officer will be selected by the Chief Compliance Officer. If the Chief Compliance Officer does not find a conflict of interest or bias, the Hearing Officer will proceed according to the original schedule.

2. At the Hearing Officer's discretion, a three-member advisory committee may be present during the meeting for the Hearing Officer to seek advice from prior to determination. Prior to the meeting, members of the committee will be furnished with a copy any complaint, response, report and basis for appeal to review. At the meeting, the committee will be afforded the opportunity to ask questions of any witness present at the meeting.

3. Depending on the basis for the submission for appeal, the Hearing Officer, in his or her sole discretion, may request or allow witnesses to appear and/or additional documentation to be submitted. Otherwise, the meeting will consist of a review of the investigatory record and separate discussions with the complainant and respondent, if participating, and the investigator.
 4. Both complainant and respondent will be notified of the meeting scheduled by the Hearing Officer. Upon request, the complainant and respondent will be afforded an opportunity to meet directly with the Hearing Officer.
 5. Within five (5) working days of the meeting, the Hearing Officer will make a determination to approve, deny or modify the investigator's finding and/or recommendations. The complainant, respondent, Office for Institutional Equity and the appropriate department/unit or administrator will be notified of the determination and rationale.
- D. If the outcome of an investigation is a finding of no violation(s) and the complainant is not a student, a complainant has the ability to appeal the investigator's findings to the Chief Compliance Officer. The appeal must be in writing and received by the Chief Compliance Officer within five (5) working days of the issuance of the investigator's findings with all supporting materials attached. The Chief Compliance Officer will issue a decision on the appeal to all parties involved. This decision will be issued within ten (10) days from the date the appeal was received. Any investigator's findings not appealed within such time are deemed final. The complainant's appeal is limited to the following considerations:
1. Whether these Procedures were properly followed;
 2. Whether there is previously unavailable evidence;
 3. Whether the facts were interpreted appropriately; or
 4. Whether the facts supported a finding of violation(s) of the Discrimination/Harassment policy.
- E. Investigation outcomes not appealed within five (5) working days are deemed final.

X. Final Appeal

A complaint or respondent may appeal the Hearing Officer's determination to the Provost/designee within five (5) working days of the date of the determination on the bases that (1) substantial procedural error occurred which affected the outcome of the hearing, or (2) the determination of the Hearing Officer was arbitrary and capricious. The review of the appeal by the Provost/Provost's designee will consist of a review of the record and written statements submitted by the complainant(s), respondent(s), and the Office for Institutional Equity based upon a submission deadline established by the Provost/Provost's designee. The Provost/Provost's designee will provide a final decision to complainant(s), respondent(s) and the Office for Institutional Equity within thirty (30) days of receipt of the appeal.

XI. Corrective Action Implementation

A. When discrimination and/or harassment is found, steps will be taken to ensure that the behavior is stopped promptly, the effects, if any, are remedied and that reoccurrence is prevented, whenever possible. Appropriate corrective action may range from counseling, written reprimands, removal of University privileges, suspensions, or other action up to and including termination or expulsion, in accordance with established University rules, procedures and collective bargaining agreements, if applicable. Other appropriate remedies may include providing an escort, ensuring that the complainant and respondent do not attend the same class or work together, relocation to a different residence hall or work area, providing counseling services, providing additional academic support services, arranging for the complainant to re-

take a course/withdraw from a class without penalty, reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct and adverse action, and training/education initiatives.

The Office for Institutional Equity will work with the appropriate department/unit to monitor corrective action to ensure compliance. The Office for Institutional Equity is responsible for ensuring that the necessary action steps are completed.

B. Corrective action may be imposed on any individual who has a duty to act in any situation of potential discrimination and/or harassment and who fails to respond in a manner consistent with the provisions of the applicable policies, and these Procedures.

XII. Enhancement of Sanctions

If a University employee, student or recognized student organization engages in conduct that constitutes discrimination and/or harassment motivated by bias based on a person's race, gender, gender identity and/or expression, religion, color, age, national origin, ancestry or disability, the sanctions for such conduct are subject to enhancement in accordance with these Procedures.

XIII. Confidentiality

To the extent possible, all information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except to the extent it is necessary to disclose particulars in the course of the investigation or when compelled to do so by law. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process.

XIV. Retaliation

Retaliation against any person for reporting or complaining of discrimination and/or harassment, assisting or participating in the investigation of a complaint of discrimination and/or harassment, or enforcing University policies with respect to discrimination and/or harassment is strictly prohibited. Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation or harassment against an individual or group for exercising rights or performing duties under these Procedures can subject the offender to sanctions independent of the merits of the allegation. Allegations of retaliation should be directed to the Office for Institutional Equity.

XV. Record Keeping

The Office for Institutional Equity will maintain a written record of all witness interviews, evidence gathered, the outcome of the investigation, and any other appropriate documents. Investigation records will not be maintained in personnel files or student files unless they are part of a formal corrective action. If corrective action is issued, a letter documenting the action should be included in the discrimination/harassment investigation file. Investigation records will be maintained in accordance with university record retention schedules. When a complaint is filed outside the University, information gathered in the course of the internal investigation may be disclosed to the investigating agency.