



Office for Institutional Equity Procedures for Addressing Reports of Discrimination, Harassment, Sexual Violence and Retaliation

I. Introduction

The University is committed to addressing allegations and suspected instances of discrimination, harassment, sexual violence and retaliation in accordance with applicable law and University policies. The Office for Institutional Equity is responsible for following these procedures (the “Procedures”) to investigate reports of discrimination, harassment, sexual violence and retaliation.

II. Definitions

Definitions in the Policies are applicable to these Procedures.

Complainant(s)

A person or persons subject to the conduct that is investigated under these Procedures.

Complaint

An allegation of one or more violations of the Policies, made to the Office for Institutional Equity, requesting an investigation and signed by the Complainant.

Investigation

The process by which the Office for Institutional Equity or designee assesses an allegation of one or more violations of the Policies. The Office for Institutional Equity may initiate an investigation of allegations for which no Complaint has been or will be made.

Investigator

A person designated by the Office for Institutional Equity and these Procedures to investigate a Complaint. In some instances, appropriately trained individuals may be delegated authority to investigate in partnership with the Office for Institutional Equity.

Preponderance of the Evidence

The standard of proof used to determine a violation of the Policies. To meet the preponderance of the evidence standard, the evidence presented must establish for a reasonable person that it is more likely than not that a violation of the Policies occurred.

Procedures

The Office for Institutional Equity Procedures for Addressing Reports of Discrimination, Harassment, Sexual Violence and Retaliation set forth in this document.

Policies

The University’s [Policy Against Discrimination, Harassment, Sexual Violence and Retaliation, Affirmative Action, Equal Access, Equal Opportunity and Non-Discrimination/Harassment Policy](#), and other policies, relating to protected class-based discrimination and harassment, sexual violence and retaliation, but not the University’s Title IX Policy as it relates to Covered Sexual Harassment as defined in the Grievance Procedures for Addressing Formal Complaints of Sexual Harassment Under the May 19, 2020 Title IX Regulations.

Report

Information provided to the Office of Institutional Equity about a possible violation of University policies relating to discrimination, harassment, sexual violence and/or retaliation.

Reporting Party

A person or persons alleging or reporting a violation of the Policies.

Respondent(s)

A person or persons alleged to have violated the Policies and whose conduct is investigated under these Procedures. A student organization or University unit (e.g. a college or program or committee), office or department may also be a "Respondent."

III. Scope

- A. Individuals subject to these Procedures: The Policies and these Procedures apply to all students, employees, visitors or other individuals who participated, are participating or will participate in a University activity. The Policies and these Procedures apply to student organizations. These Procedures do not apply to allegations of Covered Sexual Harassment as defined by the Grievance Procedures for Addressing Formal Complaints of Sexual Harassment Under the May 19, 2020 Title IX Regulations.
- B. Geographic reach of these Procedures: These Procedures address conduct that occurs on University property, off-campus during a University activity, or off-campus outside of a University activity when the conduct has continuing adverse effects on or creates a hostile environment for students, employees, visitors or other individuals who participated, are participating or will participate in a University activity.
- C. Individuals who are students and employees:
 - 1. Employees who are students may be treated either as students, employees or both at the sole discretion of the Office for Institutional Equity.
 - 2. Student employees, whose employment with the University is student employment or who are enrolled in a degree-seeking program, will be treated as students.
 - 3. If a dispute arises as to the status of a Complainant or Respondent as a student or employee, the final decision determining that status for purposes of the investigation and remedial measures in these Procedures will be made by the General Counsel or designee.
- D. Adjudication of student matters: Allegations of discrimination, harassment, sexual violence and/or retaliation involving students will be adjudicated under these Procedures only, and not under the Code of Student Conduct.
- E. Investigation of matters involving employees in the Office for Institutional Equity and other specific employees: In the event that the Complainant or Respondent is an employee of or student-worker from the Office for Institutional Equity, the General Counsel will designate an individual responsible for implementing these Procedures. In the event that

the Complainant or Respondent is the General Counsel, the General Counsel will designate an individual external to the University to work with the Office for Institutional Equity to implement these Procedures. In the event that the Complainant or Respondent is the President or a Trustee, the Chairman of the Board of Trustees will be responsible for ensuring the implementation of these Procedures.

- F. Conflict of interest: Concerns about conflicts of interest or bias must be raised with the General Counsel or designee within five (5) working days of the discovery of the possible conflict. The General Counsel or designee will have five (5) working days to determine whether a conflict exists and recommend appropriate action.

IV. General Provisions

- A. The Complainant and Respondent may have an OIE Process Advisor (OIE Advisor) or support person present during all proceedings pursuant to these Procedures to provide advice or support to the Complainant or Respondent. An OIE Advisor or support person may not, however, stand in place of either the Complainant or the Respondent, speak for the Complainant or Respondent, or otherwise participate in the investigation process, except as discussed in Section XI of these Procedures. An OIE Advisor is a trained support person available to assist a Complainant or a Respondent with understanding these Procedures, accessing resources and identifying relevant information during the investigation.
- B. Other than the Complainant or the Respondent, all employees, students and University agents or representatives must cooperate with these Procedures. Persons required to cooperate, but who fail to do so, may be subject to disciplinary action pursuant to these Procedures.
- C. If for any reason, including a pending or possible criminal investigation or prosecution, or on the advice of counsel, a Complainant or Respondent does not provide information sought by the Investigator or participate in the investigation process, the investigation will proceed without the information that person could have provided. This may result in an outcome based solely on information provided by the other Party or available witnesses. The Investigator will conclude the investigation based upon the available information. A Party who does not provide information during the investigation cannot provide that information at the meeting with the Chief Student Affairs Officer pursuant to Part XIII of these Procedures. A Party who does not provide information during the investigation cannot appeal pursuant to Part XIV of the Procedures on the grounds that the Party has new information not available during the investigation.
- D. When warranted by the circumstances, the Director of the Office for Institutional Equity, or the General Counsel or designee, if the Director is the Investigator, has authority to extend any of the time limits contained in these Procedures, except those relating to the filing of appeals.

V. Privacy and Confidentiality

- A. Reports of discrimination, harassment, sexual violence and/or retaliation are treated with the greatest degree of confidentiality possible. The Office for Institutional Equity shares information about a report or investigation only with those individuals who need to know that information to fulfill the University's obligation to investigate or as required by law. All individuals involved in an investigation are expected to treat all related information as confidentially as possible.
- B. Notwithstanding the obligation of confidentiality, the University is subject to the Ohio Public Records Act and may be required to release records related to a complaint or investigation pursuant to a public records request.
- C. Notwithstanding the obligation of confidentiality, the Complainant and the Respondent may share information relating to a report or investigation with their respective advisor(s), support person(s) and others providing support or assistance in this process to the extent necessary to enable these individuals to provide effective advice and/or support.
- D. The University may also be required to permit a student to inspect and review records related to a complaint or investigation to the extent that they constitute education records as defined in the Family Education Rights and Privacy Act.
- E. The University will comply with requests or subpoenas for records related to a Complaint or investigation as required by law.

VI. Reporting Discrimination, Harassment, Sexual Violence and/or Retaliation

- A. Reports of discrimination, harassment, sexual violence and/or retaliation may be made to the Office for Institutional Equity.
- B. University employees who become aware of information that would lead a reasonable person to believe that discrimination, harassment, sexual violence and/or retaliation has occurred must promptly notify the Office for Institutional Equity. Any student with supervisory, evaluative, grading or advisory responsibility over other members of the campus community must report such information if they become aware of it in the course of their supervisory, evaluative, grading or advisory duties.
- C. Certain University employees and outside resources are strictly confidential and are not required to report discrimination, harassment or sexual violence to the Office for Institutional Equity. A [list of these resources](#) is available from the Office for Institutional Equity and on the [Office for Institutional Equity's webpages](#).
- D. Anonymous reports may be made through the [University's anonymous reporting system](#) and will be investigated as thoroughly as is possible given the information reported.
- E. The University recognizes that a student who has been drinking alcohol or using recreational or other drugs at the time of an incident may be hesitant to make a report or participate in an investigative process because of potential consequences arising from the

Student Code of Conduct. To encourage full participation in an investigation by Complainants, Respondents and witnesses, the Office for Institutional Equity does not refer such persons to the student conduct process for non-violent Student Code of Conduct violations, such as underage possession or consumption of alcohol, drugs or narcotics, when the violation does not place the health and safety of another person at risk.

VII. Interim Measures

- A. Upon receipt of a report, the Office for Institutional Equity will take measures to support the Complainant and Respondent. Such support is non-disciplinary, non-punitive and may include issuance of No Contact Directives and collaboration with the appropriate University administrators to make reasonable adjustments to the workplace, educational environment, academic arrangements and/or campus living arrangements. When the Respondent is not affiliated with the University, a No Contact Directive may include a prohibition barring the Respondent from campus and/or University property.
- B. Once a Complaint has been received or an investigation is commenced, the Office for Institutional Equity may take additional interim measures as set forth below.
 1. Interim measures for students and employees will be imposed in consultation with the administrator with direct supervisory responsibility over the Party; i.e. for a student, the Chief Student Affairs Officer will be consulted; for an employee, the Chief Human Resources Officer will be consulted; for a faculty member or academic administrator, the Provost's Office will be consulted; for a vendor, the Vice President for Business Affairs and Finance will be consulted.
 2. The Office for Institutional Equity will inform University administrators with a need to know of the implementation of interim measures.
- C. If the Office for Institutional Equity determines that a Respondent represents a threat or potential threat to the campus community, interim measures may include emergency removal, if the Respondent is a student, or the placement on a leave of absence, if the Respondent is an employee.
 1. If the interim measure constitutes emergency removal of a student, the Notice of Emergency Removal will state that both the Complainant and Respondent may respond in writing to the Office for Institutional Equity within three working days of the date of Notice.
 2. Within three (3) working days of receipt of any responses, the Director of the Office for Institutional Equity will meet with the Chief Student Affairs Officer or designee to review the responses and jointly recommend to the Provost that the emergency removal is affirmed or revoked.
 3. Within three (3) working days of receipt of the recommendation, the Provost or designee will make the final decision to affirm or revoke the emergency removal. If the emergency removal is revoked, other interim measures may be imposed.

The Office for Institutional Equity will inform all relevant Parties of the Provost's determination.

4. Placement of an employee on temporary leave shall be done in accordance with the applicable policy or collective bargaining agreement.

VIII. Informal Resolution of Reports and Complaints

- A. Complaints and reports of discrimination, harassment and retaliation may be resolved informally.
- B. An informal resolution may consist of: individual or joint discussions facilitated by the Office for Institutional Equity with the Complainant and/or Respondent, an appropriate administrator or others, or guidance from the Office for Institutional Equity about options or strategies for resolving the concern.
- C. Any Party or the Office for Institutional Equity may terminate the informal process at any time.
- D. At any point during or after efforts are taken to achieve an informal resolution, the Office for Institutional Equity, the Complainant and/or the Respondent may determine that an investigation is required to resolve the concern and initiate a Complaint, if applicable.
- E. The informal resolution process may occur concurrently with an ongoing investigation of a Complaint.
- F. The Office for Institutional Equity may issue mutual, substantially identical No Contact Directives based on a report, and without a subsequent complaint or investigation.

IX. Investigations of Complaints of Discrimination, Harassment, Sexual Violence and/or Retaliation

- A. The Office for Institutional Equity will investigate Complaints of discrimination, harassment, sexual violence and/or retaliation when the conduct described in the Complaint, if true, would constitute a violation of the Policies. A Complaint is initiated when the Complainant alleges conduct prohibited by the Policies and signs a document describing the allegations and requesting an investigation by the Office for Institutional Equity. Electronic signatures comply with this Procedure. Receipt by the Office for Institutional Equity of an email from the Complainant alleging a violation of the Policies and requesting an investigation is sufficient to initiate a Complaint.
- B. The University will comply with a Complainant's request to remain anonymous, refrain from participating in an investigation or that an investigation not be initiated, if it is possible to do so while also protecting the health and safety of the Complainant and the University community.

1. In such circumstances, the University may nonetheless take appropriate steps to eliminate the reported conduct, prevent its recurrence and remedy its effects on the Complainant and the University community.
 2. The University will initiate an investigation if, in its sole discretion, it determines that doing so is necessary to protect the health and safety of the Complainant or the University community based on the seriousness of the alleged conduct, whether the Respondent has been involved in other incidents of misconduct, whether the Complainant is a minor, and other relevant information.
- F. Except in the circumstances described in Section IX.B, above, the University may initiate an investigation if doing so is consistent with the goal of eliminating conduct which violates the Policies, preventing its reoccurrence, remedying its effects on a Complainant and the University community, and protecting the health and safety of a Complainant and the University community.
- G. Within three (3) working days following receipt of the Complaint, the Director of the Office for Institutional Equity will review the Complaint and determine whether the Office for Institutional Equity has the jurisdiction to investigate it. The Office for Institutional Equity has jurisdiction to investigate only Complaints of discrimination, harassment, sexual violence and retaliation, except those for which Title IX of the Educational Amendments of 1972 requires investigation and resolution pursuant to the University's Title IX Policy and Title IX Grievance Procedure. If the Office for Institutional Equity has jurisdiction to investigate, an Investigator will be assigned to investigate the Complaint. If the Office for Institutional Equity does not have jurisdiction, the Director may refer the Complainant to other appropriate resources and will advise the Complainant that the matter will not be investigated by the Office for Institutional Equity.
- H. A Complainant may report conduct to the University Police Department or other appropriate law enforcement agency in addition to or instead of filing of a Complaint under these procedures, but is never required to do so. The University is committed to working cooperatively with law enforcement.
1. Contact information for the University's Police Department is available on the [CSU Police Department website](#).
 2. When a simultaneous report of sexual violence is made to the Office for Institutional Equity and law enforcement, the University will coordinate with law enforcement, as needed, to preserve evidence and achieve other shared goals.
 3. At the request of a law enforcement agency, the University may temporarily delay an investigation while the law enforcement agency gathers evidence. Notwithstanding any temporary delay of the investigation, the University will implement necessary interim measures deemed necessary to protect the Complainant and the University community.
- I. The Office for Institutional Equity will prioritize the investigation of matters of sexual violence, particularly when such matters involve a threat or potential threat to the campus community, and may investigate such complaints before investigating others which do not involve a threat or potential threat to the campus community.

- J. Initiating a Complaint with the Office for Institutional Equity does not preclude filing a complaint with an external agency, such as the [Ohio Civil Rights Commission](#) (OCRC), the [Equal Employment Opportunity Commission](#) (EEOC) or the [Office for Civil Rights in the U.S. Department of Education](#) (OCR), nor does it extend time limits followed by those agencies. Information regarding filing charges with an outside agency may be obtained by contacting the agency directly or the Office for Institutional Equity.

X. Investigation Process

- A. Complainants, Respondents and University administrators with a need to know the information will be informed of the investigation and its progress in a timely and ongoing basis:
 - 1. The initial notification to the Respondent(s) will include a copy of the Complaint (which may be redacted) or summary, or a description of the basis for the University-initiated investigation, applicable Policies and these Procedures.
 - 2. The Respondent(s) will be offered an opportunity to respond in writing to the Complaint or the basis for the University-initiated investigation within seven (7) working days from the date of hand delivery, regular U.S. Mail or electronic communication of the notification of the Complaint. The response of the Respondent(s) (portions of which may be redacted) will be provided to the Complainant.
- B. The purpose of the investigation is to identify facts which permit the Office for Institutional Equity to evaluate the allegations of discrimination, harassment, sexual violence or retaliation, and formulate a remedial response.
- C. The Investigator will discuss the following with the Complainant and Respondent:
 - 1. The conduct and any related issues that gave rise to the Complaint.
 - 2. The importance of confidentiality during the investigation.
 - 3. The University's prohibition of retaliation.
 - 4. Upon conclusion of the investigation, records may be made available to the Parties and the public to the extent mandated by law.
- D. Depending on the facts and circumstances of the case and in the discretion of the Investigator, the Investigator may interview Complainant(s), Respondent(s) and witnesses with relevant information. The Investigator may also gather and review relevant records, including video and audio recordings, text and email messages, police reports and other information. Both the Complainant and Respondent have the right to identify witnesses and provide records to the Investigator.
- E. Investigations should be concluded within a reasonable time from the date of the Complaint or the notice to the Respondent of the University-initiated investigation. The Investigator will inform the Complainant(s) and Respondent(s) of the progress of the investigation and the estimated conclusion date.
- F. After analyzing all the information, the Investigator will prepare a written Investigator's Report containing the following: the allegations, a description of the investigation, the

factual findings, the basis on which the conclusions were reached, recommended action steps and/or remedial measures, and other relevant information. The Investigator's Report will be provided to the Complainant, Respondent and appropriate administrator(s).

- G. A violation of the Policies will be found when a preponderance of the evidence supports the finding of a violation. The Investigator may recommend action without finding a violation of the Policies. An investigation may result in one of the following findings:
1. There is sufficient evidence of one or more violations of University Policies.
 2. There is insufficient evidence of a violation of University Policies.
 3. There is sufficient evidence that an allegation is false.
- H. A false allegation occurs when an individual knowingly, or with reckless disregard for the truth, makes a false report of discrimination, harassment, sexual violence or retaliation, or gives false information during the investigation or proceeding relating to such an allegation. A person acts with reckless disregard for the truth when the person makes the report or provides the information, but makes no effort to determine whether it is true, or is indifferent to whether it is true. A false allegation does not include a report made in good faith about suspected discrimination, harassment, sexual violence or retaliation that is based on a reasonable belief that the conduct has both occurred and violates the Policies, even if, upon investigation, the report is not substantiated. The Office for Institutional Equity may investigate, pursuant to these Procedures, whether an individual made a false allegation.
- I. If the Investigator finds a violation of University Policies or determines that an allegation is false, and both Parties are students, the Investigator's Report will contain recommended remedial measures to correct the violation, remedy the effects of the violation and prevent its recurrence.
- J. If the Investigator finds a violation of University Policies or determines that an allegation is false, and the Respondent is an employee:
1. The Investigator will first submit the Investigator's Report, without recommended remedial measures, to the Chief Human Resources Officer or designee, if the Respondent is a staff or professional employee, or the Provost or designee, if the Respondent is a faculty member, or other appropriate administrator.
 2. Within five (5) days of the submission of the Investigator's Report pursuant to Section X.J.1, above, the Investigator will consult with the administrator to whom the Investigator's Report was provided, to determine remedial measures, including appropriate discipline for the Respondent.
 3. Within five (5) days of the consultation pursuant to Section X.J.2, the Investigator's Report will be amended to include appropriate remedial measures to correct the violation, remedy the effects of the violation and prevent its recurrence, and provided to the Complainant, Respondent and appropriate administrators.
- K. If no Party is a student, the process used to determine discipline, sanctions or other appropriate action is set forth in Section XII below. If any Party is a student, the Chief

Student Affairs Officer will make a final decision on the findings and remedial measures pursuant to the procedure set forth in Section XIII below.

XI. Special Procedures for Resolving Credibility in Investigations of Complaints Alleging that a Student Respondent Engaged in Sexual Harassment and/or Sexual Violence

- A. The procedures in this Section XI implement the due process requirements set out by the Sixth Circuit Court of Appeals in *Doe v. Baum et al.*, Case No. 2:16-cv13174 (Sept. 7, 2018), which holds that, “if a public university has to choose between competing narratives to resolve a case, the university must give the accused student or his agent an opportunity to cross-examine the accuser and adverse witnesses in the presence of a neutral fact-finder.”
- B. The procedures in this section apply when the Complaint alleges sexual harassment or sexual violence, the Respondent is a student, the outcome of the investigation depends on an assessment of credibility of conflicting statements of the Respondent and the Complainant, or a witness whose statements conflict with the Respondent’s, and the OIE Director or designee determines that the investigation may result in a finding of a violation of the Policy and a recommendation for sanctions against the Respondent.
- C. A Party or other person who is receiving support from OIE will receive and continue to receive support whether or not they participate in the cross examination process described in this section of these Procedures.
- D. The OIE Director and/or designee will determine whether the procedures in this section are applicable to a particular investigation. Generally, this determination will be made after the Investigator has interviewed the Respondent and the Complainant. In all cases, this determination will occur before the OIE Investigator issues the Investigator’s Report.
- E. If a cross examination of a Complainant or witness is required under this section, and the Complainant or witness declines to participate in the cross examination, OIE will not use, in determining the outcome of the investigation, statements made by the Complainant or witness which are contradicted by the Respondent.
- F. The Respondent may elect not to participate in a cross examination, however, doing so will not prevent the Investigator from finding that a violation occurred and recommending sanctions.
- G. The Investigator will advise the Parties that this cross examination procedure applies and identify the person(s) who will be invited to participate in a cross examination. The OIE Investigator will advise the Parties if the other and/or any witness elects to participate in the cross examination or declines to do so.
- H. If the Respondent waives his or her right to cross examine the Complainant and/or any witnesses, no cross examination will be conducted of any Party or witness.
- I. Either Party may advise the Investigator that they do not want to be asked questions directly by the other and the reason(s) why. When that occurs, the OIE Director and/or

designee may determine that an OIE Process Advisor or a representative of the other Party, who may be an attorney, will conduct the cross examination.

1. The Investigator will identify the factors which led to the decision that a Party will or will not question the other person.
 2. If a Party's representative will question a witness, the Party has the right to be present during the cross examination.
 3. While a Party's attorney may conduct the cross examination, this is the only capacity in any matter covered by the Policy and/or these Procedures in which an attorney may represent, as opposed to support, either Party.
 4. Both Parties have the option to engage an OIE Process Advisor to conduct the cross examination of the other Party or witness.
- H. The subject of cross examination is limited to matters in which the Respondent and the Complainant or a witness provide different versions of the same events and require an assessment of credibility to determine whether a violation of the Policy has occurred and/or recommend appropriate sanctions.
- a. The Investigator is solely responsible for identifying such matters.
 - b. The Investigator will advise the parties of the matters about which cross examination may occur.
 - c. The Investigator will provide the Parties with summaries of the evidence learned in the investigation and the subject matter(s) of cross examination with sufficient advance notice to enable appropriate preparation for the cross examination.
- I. Either Party may request that the Investigator permit questioning to occur via videoconference, such as Skype, while the Parties are in different locations.
- a. The OIE Director or designee will identify the factors which led to a decision that questioning will occur through videoconference.
 - b. The OIE Director or designee may set reasonable conditions on the questioning via videoconference.
- J. The cross examination will occur in a manner which permits the Chief Student Affairs Officer (CSAO) or designee, as the fact-finder with authority to accept or reject the OIE Investigation Report and implement sanctions, if appropriate, to observe and hear in real time the person sitting for cross examination. The cross examination of a Party or witness must occur in a manner which permits the other Party or Parties to observe and hear in real time the person sitting for cross examination.
- K. The Investigator will record the cross examination for OIE's purposes. The Parties may each record the cross examination for their own purposes.
- a. OIE is not required to provide a transcript of the cross examination(s) to any Party.
 - b. If OIE provides a transcript to one Party, the same transcript will be provided to the other Party.

- L. Procedures pertinent to the cross examination are as follows:
- a. The OIE Director or designee may put reasonable time limits on the questioning of witnesses, and may determine that questions will be asked in one or multiple sessions.
 - b. The OIE Director or designee may require that all questions are presented in writing to the OIE Director or designee prior to being asked of the witness. The OIE Director or designee may disallow questions because they are not relevant, are harassing or abusive, have previously been asked and answered, and/or for other reasons.
 - c. During cross examination, persons being questioned or their representatives may object to certain questions. Objections may include lack of relevance, harassment or abuse of a witness, and/or abuse of the questioning process. The OIE Director or designee will respond to such objections by allowing or disallowing the question(s).
 - d. The OIE Director or designee may terminate questioning if he or she deems it necessary to do so to protect a witness from abuse, harassment or for other reasons.
 - e. If, during a cross examination, the person being questioned desires a break, a break will be taken once that person responds to the last pending question. The OIE Director or designee may put reasonable limits on the duration and frequency of such breaks.
- M. The Investigator may use some or all of the information, and/or impressions as to credibility, arising from the cross examination in the OIE Investigator's Report. The Chief Student Affairs Officer or designee may use some or all of the information, and/or impressions as to credibility, arising from the cross examination in the Chief Student Affairs Officer's decision, including sanctions.
- N. Either Party may contest the implementation of the cross examination procedure in Section XIII (Resolution of Student Matters) and Section XIV (Appeal), paragraph D.2 (Whether these Procedures were followed, and if not, whether the failure to follow these procedures had a materially adverse impact on the Investigator's Report) of the OIE Procedures.

XII. Resolution of Non-Student Matters

- A. If the Respondent is a staff employee, the Investigator's Report will be provided to the Chief Human Resources Officer. Appropriate discipline will be imposed pursuant to the Professional Staff Personnel Policies, the relevant collective bargaining agreement, or other policies governing the terms and conditions of the employee's employment. The Chief Human Resources Officer will inform the Investigator of any discipline imposed on

the Respondent and/or other remedial measures taken, and provide the Investigator with copies of the relevant documents.

- B. If the Respondent is a faculty member, the Investigator's Report will be provided to the Provost and appropriate discipline will be imposed pursuant to the Faculty Personnel Policies or the AAUP Collective Bargaining Agreement. The Provost or designee will inform the Investigator of any discipline imposed on the Respondent and/or other remedial measures taken, and provide the Investigator with copies of the relevant documents.
- C. If the Respondent is not affiliated with the University, the Investigator's Report will be provided to the appropriate administrator and recommendations, if any, will be implemented by the appropriate administrator. The administrator will inform the Investigator of all action taken against the Respondent and/or other remedial measures taken, and provide the Investigator with copies of the relevant documents.
- D. If the Complainant is not a student and the Investigator does not find a violation of the Policies, the Complainant may appeal the Investigator's Report in accordance with Section XIV of these Procedures. If no appeal is filed within five (5) working days of the date of the Investigator's Report, the findings, conclusions and remedial measures in the Investigator's Report are deemed final.

XIII. Resolution of Student Matters

- A. When either Party is a student, the Investigator's Report shall be forwarded to the Chief Student Affairs Officer or designee (CSAO).
- B. Within ten (10) working days from the date of the Investigator's Report, the CSAO will convene a meeting or meetings to provide the Complainant and Respondent an opportunity to respond to the Investigator's findings. The Complainant and the Respondent may identify findings with which they agree or disagree, and state the bases for that agreement or disagreement. The Investigator will attend the meeting or meetings, where the Complainant and Respondent may question the Investigator about the findings in the Investigator's Report.
 - 1. The Complainant, Respondent and Investigator will be notified of the meeting(s) scheduled by the CSAO.
 - 2. The Complainant and Respondent both have the right, but are not required, to meet with the CSAO.
 - 3. At the discretion of the CSAO, the Parties will be invited to attend a single meeting for all Parties as discussed above, or separate meetings attended by a single Party.
 - 4. At the CSAO's discretion, up to three appropriate administrators who have been trained on the Policies and Procedures may be present during the meeting(s) to consult with and advise the CSAO, and question the participants at the meeting.
 - 5. If the Complainant is a student and the Respondent is a staff employee, the CSAO may consult with the Chief Human Resources Officer or designee to determine appropriate discipline, if any. If consulted, the Chief Human Resources Officer or

designee will provide the CSAO with information relevant to such discipline, if any, including the Professional Staff Personnel Policies, the relevant collective bargaining agreement and other policies governing the terms and conditions of the employee's employment.

6. If the Complainant is a student and the Respondent is a faculty member, the CSAO may consult with the Provost or designee to determine appropriate recommended discipline, if any. The Provost or designee will provide the CSAO with information relevant to such recommended discipline, if any, including the Faculty Personnel Policies, the AAUP Collective Bargaining agreement and other policies governing the terms and conditions of the faculty member's employment.
7. Within five (5) working days of the meeting with the Complainant and the Respondent, or the latter of the meetings if held separately, the CSAO will make a determination to approve, deny or modify the Investigator's findings, implement remedial measures and sanction the Respondent, if appropriate. The Complainant, Respondent, Office for Institutional Equity and the appropriate administrator(s) will be notified in writing of the CSAO's determination and rationale.
8. Implementing sanctions and/or disciplinary action.
 - a. If the Respondent is a student, the CSAO will issue appropriate sanctions and/or disciplinary action.
 - b. If the Respondent is a staff employee, the CSAO will recommend sanctions and/or disciplinary action to the appropriate supervisor or Chief Human Resources Officer or designee. The appropriate supervisor or Chief Human Resources Officer or designee will strive to communicate a decision to issue sanctions or disciplinary action to the Respondent within five days of receiving the CSAO's recommendation or within a reasonable time thereafter.
 - c. If the Respondent is a faculty member, the CSAO will recommend sanctions and/or disciplinary action to the Provost. The Provost will strive to communicate a decision to issue sanctions or disciplinary action to the Respondent within five days of receiving the CSAO's recommendation or within a reasonable time thereafter.
9. If the Respondent is a student, either Party may appeal the CSAO's decision to the Provost pursuant to Section XIV below.
10. If the Respondent is not a student and there is a finding of a violation, the appropriate administrator will take action consistent with the CSAO's decision and in accordance with the relevant policies, or collective bargaining agreement. The administrator will inform the Investigator of all remedial action taken and provide the Investigator with copies of the relevant documents.
11. If there is a finding of no violation, a student Complainant may appeal the finding of no violation as set forth in Section XIV.

XIV. Appeal

- A. Appeals are available pursuant to these Procedures as follows:

1. If the Respondent is a student, either Party may appeal the CSAO's decision to the Provost or designee.
2. If the outcome of an investigation is a finding of no violation(s):
 - a. If the Complainant is not a student, a Complainant may appeal the Investigator's report to the General Counsel or designee pursuant to this section.
 - b. If the Complainant is a student, a Complainant may appeal the CSAO's decision to the Provost pursuant to this section.
- B. If the Respondent is an employee, any challenge to corrective action taken as a result of an investigation will be governed by the personnel policies or collective bargaining agreement applicable to that employee and subject to deadlines contained in those policies or collective bargaining agreement.
- C. When at least one Party is a student, appeals filed pursuant to this section must be submitted within five (5) working days of the issuance of the CSAO's decision to the OIE Director, who will forward it to the appropriate decision maker on the appeal. When no Party is a student, appeals filed pursuant to this section must be submitted to the OIE Director within five (5) days of the date of the Investigator's Report. The OIE Director will forward the appeal to the appropriate decision maker on the appeal. An appeal must be in writing with all supporting materials attached.
- D. An appeal is limited to the following bases:
 1. Whether the Investigator or other decision-maker was biased or had a conflict of interest;
 2. Whether these Procedures were followed, and if not, whether the failure to follow these Procedures had a materially adverse impact on the Investigator's Report;
 3. Whether there is previously unavailable relevant evidence that could significantly impact the findings and conclusions in the Investigator's Report; or
 4. Whether the recommended sanction is substantially disproportionate to the findings and conclusions in the Investigator's Report.
- E. Within ten (10) working days of the date the appeal, the Provost or Chief Compliance Officer, or designee, will review the record and issue a decision on the appeal to all Parties.
- F. Any CSAO decision or Investigator's Report not appealed within the time frames set forth in this Section XIV is deemed final.

XV. Corrective Action Implementation

- A. When an Investigator's Report identifies violation(s) of the Policies, remedial measures will be promptly taken to correct the violation, eliminate its effects, and prevent reoccurrence.

- B. Corrective action for employee-Respondents will be implemented in accordance with established University rules, procedures and collective bargaining agreements, if applicable.
 - 1. The Investigator will be informed of all corrective action taken and provided with copies of the relevant documents.
 - 2. To the extent that employee-Respondents appeal under these procedures, a student-Complainant may participate in that process.
- C. Corrective action for student-Respondents will be implemented pursuant to these Procedures.
- D. Corrective action will include consideration of the following factors:
 - 1. Prior disciplinary history of Respondent, including other complaints of sexual violence;
 - 2. Whether Respondent intentionally incapacitated or attempted to intentionally incapacitate the Complainant through drugs or alcohol;
 - 3. Whether the Complainant was incapacitated due to drugs or alcohol;
 - 4. Whether violence, physical force, threats of physical force used, or a weapon used or displayed;
 - 5. Other mitigating or aggravating factors of significance to a particular matter; and
 - 6. The sanction imposed on a student-Respondent, who is found responsible for engaging in sexual violence or non-consensual sexual intercourse, oral, anal, and/or vaginal penetration to any degree and with any body part or object, is presumed to include a suspension of at least one semester.
- E. Any or all of following sanctions may be imposed for a violation of the Policies:
 - 1. Expulsion: the permanent separation of the Respondent from the University without the option for readmission in the future;
 - 2. Suspension: separation of the Respondent from the University for a period of one, two, three, four, five, six, seven or eight semesters, and documentation of the suspension on the respondent's academic transcript;
 - 3. Disciplinary probation: formal written warning that the Respondent's conduct violated the Policies and that continued enrollment of the respondent is based on the Respondent's compliance with the Policies on a going forward basis;
 - 4. Reprimand: a written statement placed in the disciplinary file of the Respondent and maintained in Student Affairs or documentation of a verbal reprimand issued to the respondent;

5. Restitution: A requirement that the Respondent reimburse the Complainant for damages;
 6. Restriction: temporary or permanent loss of:
 - a. Use of any or all University facilities or services;
 - b. The ability to participate in University extra-curricular activities, athletics or student organizations; and
 - c. The ability to serve in a student leadership or advisory role.
 7. Community Service: requiring the Respondent to render a designated amount of specified service to the University or community;
 8. Education: requiring the Respondent to attend a specified training or education program, whether on-line or otherwise; and
 9. Counseling: requiring the Respondent to meet with professional staff in the University's Counseling Center and comply with all recommendations of the Counseling Center's professional staff;
 10. Continuation of No Contact Directives: requiring the Respondent to comply with a new or ongoing No Contact Directive; and
 11. Creative or alternative sanctions: enrolling in and completing anger management or batterer intervention courses, performing volunteer work, writing essays, completing a 12-step or other addiction program, enrolling in and completing a sex offender rehabilitation program, issuing a sincere apology, and any other remedy appropriate for the circumstances.
- G. Other remedies may include: providing an escort; ensuring that the Complainant and Respondent do not attend the same class, work together or participate in the same extracurricular activities; relocation to a different residence hall or work area; providing counseling services or additional academic support services; arranging for the Complainant to re-take a course or withdraw from a class without penalty; job reassignment; targeted training for a group of students, faculty, or staff; and training, education initiatives or other remedies tailored to the circumstances.
- H. The Office for Institutional Equity will work with the appropriate administrator(s) to monitor corrective action to ensure compliance. The Office for Institutional Equity is responsible for ensuring that the necessary action steps are completed.
- I. Remedial action may be imposed on any individual who had a duty to report potential discrimination, harassment or sexual violence and who failed to act in a manner consistent with the Policies and these Procedures.

XVI. Training

University employees responsible for implementing these Procedures will be trained at least annually on matters which will include, but are not limited to, the Policies, these Procedures, confidentiality and privacy, determining appropriate remedies for conduct which violates the Policies and applicable state and federal laws, rules and regulations.

XVII. Record Keeping

The Office for Institutional Equity will maintain documentation of reports, complaints and investigations and remedial measures. Investigation records will not be maintained in personnel files or student files unless they are part of a formal corrective action. These records will be maintained in accordance with University record retention schedules.

Approved: Director, OIE, August 10, 2020