

# Office for Institutional Equity Procedures for Addressing Reports of Discrimination and Harassment (OIE Procedures)

## I. Introduction

The University is committed to addressing allegations and suspected instances of discrimination and/or harassment in accordance with applicable law and policies. The Office for Institutional Equity is responsible for appropriately investigating all complaints of discrimination and/or harassment pursuant to the University's [Discrimination/Harassment Policy](#). In some instances appropriately trained 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.

## II. Definitions

Definitions in the Discrimination/Harassment Policy are applicable to these Procedures.

### **Advisory Committee to the Vice President of Student Affairs**

The committee appointed by the Director of the Office for Institutional Equity to advise the Vice President of Student Affairs pursuant to Section XIII of these Procedures. The committee members serve in an advisory role at the discretion of the Vice President of Student Affairs after completing training approved by the Office for Institutional Equity.

### **Complainant(s)**

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

### **Investigator**

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

### **Preponderance of the Evidence**

The standard of proof used to determine a violation of University policies, inappropriate conduct or false allegation. 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 the conduct occurred.

### **Procedures**

The procedures set forth in this document.

### **Policy**

The University's [Discrimination/Harassment Policy](#).

### **Respondent**

The person or persons whose conduct is investigated under these Procedures.

### **III. Scope**

- A. The Policy and these Procedures apply to all students, employees, visitors or other individuals participating in a University activity. They 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 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, whose employment with the University is student employment or who are enrolled in a degree-seeking program will be treated as students. Allegations of discrimination and/or harassment involving students will be adjudicated under these Procedures only and not under the Code of Student Conduct. If a dispute arises as to the status of a Complainant or Respondent, the final decision regarding which policy/procedure will be used for the investigation and determination will be made by the Chief Compliance Officer or designee.
- B. In the event that a report of discrimination or harassment concerns the conduct of an employee or student-worker from the Office for Institutional Equity, or such person is the Complainant, the Chief Compliance Officer shall designate an individual who shall be responsible for implementing these Procedures. In the event that a complaint concerns the conduct of the Chief Compliance Officer or the Chief Compliance Officer is the Complainant, the General Counsel 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 conduct of the President or a Trustee or the President or a Trustee is the Complainant, the Chairman of the Board of Trustees shall be responsible for ensuring the implementation of these Procedures. Other concerns about conflicts of interest may be raised with the Chief Compliance Officer or designee within five (5) working days of the information giving rise to the belief that a conflict exists. The Chief Compliance Officer or designee will have five (5) working days to determine whether a conflict exists and recommend appropriate action, if so.

### **IV. General Provisions**

- A. 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.
- B. Other than the Complainant, 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 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.
- C. When extenuating circumstances warrant, the Director of the Office for Institutional Equity, or the Chief Compliance Officer if the Director is the Investigator, 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.

## V. Privacy/Confidentiality

- A. To protect both the Complainant and the Respondent, reports of discrimination and/or harassment will be treated with the greatest degree of confidentiality possible. The Office for Institutional Equity will only share information about a report with those individuals who have a need to know or in order to fulfill the University's obligation to investigate allegations of misconduct. All individuals involved in the investigation of a complaint are expected to observe the same standard of discretion and maintain the privacy of the parties.
- B. While the University endeavors to keep these matters as confidential as possible, involved parties should be aware that the University is subject to the Ohio Public Records Act and may be required to release records related to a complaint as a result of a public records request. Also, to the extent that records related to a complaint/investigation constitute education records under the Family Education Rights and Privacy Act (FERPA), a student may have the right to inspect and review records per CSU's FERPA policy.

## VI. Reporting Discrimination and/or Harassment

- A. Reports of discrimination or harassment may be made by contacting the Office for Institutional Equity or by submitting a completed Discrimination/Harassment Complaint Form to the Office for Institutional Equity. There is no deadline for making a report of discrimination or harassment. However, if a report involves conduct that last occurred 180 calendar days or more before the report, the Office for Institutional Equity may determine that the report cannot reasonably be investigated. Notwithstanding the foregoing, a complaint relating to alleged discrimination and/or harassment occurring during a Complainant's employment by the University must be filed within ten (10) working days following the end of the Complainant's employment with the University.
- B. Any executive or administrative officer, 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 is required to notify the Office for Institutional Equity. Graduate assistants and student workers who have 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 duties. Reporters may complete a Discrimination/Harassment Complaint Form available from the Office for Institutional Equity. In addition, if the conduct giving rise to the report may be a felony, every person has a duty to report it to law enforcement authorities.
- C. Certain University employees and outside resources are strictly confidential and are not required to report discrimination to the Office for Institutional Equity. A list of these resources is available on the [University's Title IX webpage](#).
- D. Anonymous reports may be made through the [University's anonymous reporting system](#). Such reports will be investigated; however, the University's ability to investigate or resolve anonymous reports may be limited.
- E. The University recognizes that a student who has been drinking or using drugs at the time of an incident may be hesitant to make a report or participate in an investigative process because of potential consequences related to student conduct. To encourage reporting, the Office for

Institutional Equity does not refer a Complainant, Respondent or third-party witnesses to a student conduct process for non-violent Student Code of Conduct violations related to a report, such as underage possession/consumption of alcohol, drugs or narcotics, when the violation does not place the health and safety of another person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

## **VII. Interim Measures**

- A. Upon receipt of a report of a violation of the Policy, the Office for Institutional Equity shall work with the Complainant to take measures to support the Complainant. In the absence of a formal complaint or investigation, the support may include issuing a “no contact order,” to the potential Respondent, and working with the appropriate University administrator to make reasonable adjustments in the Complainant’s workplace, academic arrangements and/or campus living arrangements. When the Respondent is not a student or employee of the University, the no contact order will include a prohibition against the Respondent coming to campus. If a formal complaint is filed or the University initiates an investigation of a report, the Office for Institutional Equity may take additional interim measures as set forth in section VII.(B) through (D) below.
- B. Interim measures for students and employees will be imposed in consultation with 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 Vice President of Student Affairs will be consulted; if the interim measure is to be taken with respect to an employee, the Chief Human Resources Officer will be consulted; if an interim measure is to be taken with respect to a faculty member or academic administrator, the Provost Office will be consulted; if an interim measure is to be taken with respect to a vendor, the Vice President for Business Affairs and Finance will be consulted. The Office for Institutional Equity will inform all parties of the interim measures to be taken.
- C. If the Office for Institutional Equity determines that a Respondent represents a threat to the campus community, the interim measures can include the suspension of the Respondent, if the Respondent is a student, or the placement of the Respondent on temporary leave, if the Respondent is an employee.
- D. If the interim measure involves the suspension of a student, the notice of interim measures will state that both the Complainant and Respondent may respond in writing to the notice of suspension within three working days from the date of notice. Written responses will be submitted to the Office for Institutional Equity. Within three (3) working days of receipt of any responses, the Director of the Office for Institutional Equity shall meet with the Vice President for Student Affairs to review the responses and jointly recommend to the Provost that the Provost either affirm or revoke the suspension. Within three (3) working days of receipt of the recommendation, the Provost or designee shall make the final decision as to whether to affirm or revoke the suspension. If the suspension is revoked, other interim measures may be imposed. The Office for Institutional Equity will inform all parties regarding the Provost’s determination. Placement of an employee on temporary leave shall be done in accordance with the applicable policy or collective bargaining agreement.

### **VIII. Informal Resolution of Complaints**

- A. Complaints of discrimination may be resolved through an informal process or by filing a formal complaint.
- B. An informal resolution may consist of the Complainant initiating a conversation with the responsible party or seeking 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.
- C. Either party has the option at any time to end the informal process and file a formal complaint (Complainant) or request a formal investigation (Respondent), or to file a formal complaint if the informal process does not resolve the issue.
- D. Informal resolutions between the Complainant and Respondent are not available in cases involving Sexual Violence.

### **IX. Investigating Formal Complaints of Discrimination or Harassment**

- A. The University will investigate all reports of discrimination and harassment when a Complainant makes a formal complaint that alleges conduct prohibited by the Policy.
- B. In situations where a Complainant requests anonymity, declines to participate in an investigation, or requests that no disciplinary action be taken, the University will honor that request 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 take other appropriate steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and the University community.
  - (2) In some circumstances, the University will proceed with an investigation when, after evaluating a totality of the circumstances, the University determines that the health and safety of the Complainant or the University community could be at risk. Factors to be considered include 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. In all circumstances, a Complainant has a right not to participate in an investigation.
- C. The Discrimination/Harassment Complaint Form or other documentation acceptable to the Office for Institutional Equity will initiate a formal complaint. Within three (3) working days following receipt of the Complaint Form/documentation, 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 only has the jurisdiction to investigate complaints of discrimination, harassment, sexual misconduct and retaliation. 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.

- D. Complainants may pursue a complaint with the Police Department in addition to or instead of filing of a formal complaint under these procedures, but is never required to do so.
- E. At the request of law enforcement, the University may temporarily delay an investigation while the law enforcement agency is gathering evidence. However, the University will still take immediate and prompt interim steps that it deems necessary to protect the Complainant and the University community. The University will promptly resume its investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.
- F. Filing a complaint with the Office for Institutional Equity does not preclude an individual from 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 with those agencies. Information regarding filing charges with an outside agency may be obtained by contacting the agency directly or from the Office for Institutional Equity.

## **X. Investigator Duties**

- A. Investigations will be a collaborative effort between Office for Institutional Equity and the relevant department/unit whenever possible. Complainants/Respondents 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), the Respondent's department head or supervisor and to any other appropriate University administrator by delivery of a copy of the complaint through hand delivery, regular U.S. Mail or email.
- B. 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 manner and frequency with which they will be updated about the status of the investigation.
  - 3. The importance of confidentiality during the investigation.
  - 4. The prohibition of retaliation by University policy.
  - 5. Upon conclusion of the investigation, records may be made available to the parties and the public to the extent mandated by law.

## **XI. Investigation Process**

- A. The purpose of the investigation is to evaluate the allegations of discrimination and/or harassment, and 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 (which may be redacted), the 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 (or the Chief Compliance Officer, if

the Director is the Investigator). A copy of the Respondent(s)'s response (which may be redacted) will be provided to the Complainant.

- B. Depending on the facts and circumstances of the case and in the discretion of the Investigator, an investigation may range along a continuum from separate conversations with the Complainant and Respondent to an inquiry with witness interviews. During the investigation, the Investigator may interview Complainant(s), Respondent(s), and pertinent witnesses who have knowledge of the events and may gather relevant documents. Both the Complainant and Respondent have the right to identify witnesses and provide records to the Investigator.
- C. Investigations should be concluded within a reasonable timeframe, ideally within thirty (30) calendar days from the date the complaint was filed. If this is not reasonably possible due to extenuating circumstances, the Investigator will 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 (or the Chief Compliance Officer, if the Director is the Investigator) has the authority to extend any of the time limits in these Procedures except those relating to the filing of complaints and the filing of appeals.
- D. 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. The report will include the basis upon which the Investigator reached his or her conclusions. In every case, a record must be made of the allegations, investigation, and action taken.
- E. A violation of University policy will be found when a preponderance of the evidence supports the finding of a violation. It is possible that while no violation of University policy is found, there was inappropriate conduct for which remedial and/ or preventive action is necessary. 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. A false allegation occurs when someone knowingly, or with reckless disregard for the truth, makes 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, harassment, and/or retaliation, even if, upon investigation, the report is not substantiated.
- F. At the conclusion of the investigation, the Investigator will inform the Complainant and Respondent of the Investigator's completion of the investigation and forward the investigation report to the appropriate department/unit or administrator. If the Investigator finds that discrimination, harassment, false allegation, inappropriate conduct or other policy violation

occurred, the report will contain the Investigator's recommended action steps to remedy adverse effects of the violation, correct the behavior and prevent its recurrence.

- G. If no party is a student, the process used to determine discipline or other appropriate action is set forth in Section XII below. If any party is a student, the Vice President of Student Affairs will make a final decision on the matter in accordance with the procedure set forth in Section XIII below.

## **XII. Resolution of Non-Student Matters**

- A. If the Respondent is a staff employee, the investigation report will be provided to the Chief Human Resources Officer. Any appropriate discipline will be imposed pursuant to the Professional Staff Personnel Policies, the relevant collective bargaining agreement, or other policy governing the terms and conditions of the employee's employment as applicable.
- B. If the Respondent is a faculty member, the investigation report will be provided to the Provost and any appropriate discipline will be imposed pursuant to either the Faculty Personnel Policies or the AAUP Collective Bargaining agreement.
- C. If the Respondent is not affiliated with the University, the recommendations will be implemented by the appropriate office.
- D. If the Complainant is not a student and the investigator does not find that discrimination, harassment, inappropriate conduct or other policy violation occurred, he or she may appeal the investigation report in accordance with Section XIV of these Procedures. If no appeal is filed within five (5) working days of the issuance of the report, that decision is deemed final. In such circumstances, the Investigator will issue a notice of final determination to the parties.

## **XIII. Resolution of Student Matters**

- A. When either party is a student, the investigation report shall be forwarded to the Vice President of Student Affairs or designee (VPSA).
- B. Within ten (10) working days from the issuance of the report, the VPSA will convene a meeting to consider the matter.
  - 1. The Complainant, Respondent and Investigator will be notified of the meeting scheduled by the VPSA. The meeting will consist of a review of the investigation report and discussions with the Complainant and Respondent, if participating, and the Investigator. The Complainant and Respondent both have the right, but are not required, to meet with the VPSA. If either party requests, the Complainant and Respondent may meet separately with the VPSA and Investigator, or attend and participate in the meeting through alternative means that do not require the parties to be in the same room. For meetings involving claims of sexual harassment, the Complainant and Respondent may not directly question each other, but they may pose questions to the VPSA for the VPSA to consider and to ask the other party if the VPSA deems the question to be relevant.



2. At the VPSA's discretion, a three-member Advisory Committee may be present during the meeting for the VPSA to seek advice from prior to determination. Prior to the meeting, members of the committee will be furnished with relevant documents including a copy of any complaint, response, and report. At the meeting, the committee will be afforded the opportunity to ask questions of any of the participants in the meeting.
3. Within five (5) working days of the meeting, the VPSA will make a determination to approve, deny or modify the Investigator's findings and recommended action steps/sanctions, if any.. The Complainant, Respondent, Office for Institutional Equity and the appropriate department/unit or administrator will be notified in writing of the determination and rationale.
4. If the Respondent is a student, either party may appeal the VPSA's decision to the Provost pursuant to Section XIV below. If the Respondent is not a student, the appropriate department/unit or administrator will take action in light of the VPSA's decision in accordance with the relevant policy or collective bargaining agreement.

#### **XIV. Appeal**

- A. Appeals are available pursuant to this section as follows:
  1. If the Respondent is a student, either party may appeal the VPSA's decision to the Provost or designee.
  2. If the outcome of an investigation is a finding of no violation(s) and the Complainant is not a student, a Complainant may appeal the Investigator's report to the Chief Compliance Officer pursuant to this section.
- B. If the Respondent is an employee, the challenge of any action taken as a result of an investigation shall be governed by the personnel policy or collective bargaining agreement applicable to that employee and subject to deadlines contained in the applicable policy/collective bargaining agreement.
- C. All appeals filed pursuant to this section shall be submitted within five (5) working days of the issuance of the VPSA's decisions, for student Respondents, or the Investigator's findings for all others filing appeals. The appeal must be in writing with all supporting materials attached.
- D. The appeal is limited to the following bases:
  1. Whether the Investigator was biased or had a conflict of interest;
  2. Whether these Procedures were properly followed, and if not, whether the failure to properly follow these Procedures had a materially adverse impact on the investigation;
  3. Whether there is previously unavailable relevant evidence that could significantly impact the outcome of the investigation; or
  4. Whether the recommended sanction is substantially disproportionate to the findings.
- E. The Provost or Chief Compliance Officer, or designee, will conduct a review of the record and will issue a decision on the appeal to all parties involved. This decision will be issued within ten (10) working days from the date the appeal was received.

- F. Any VPSA decision or Investigator's report not appealed within the time frames set forth in this Section XIII shall be deemed final.

## **XV. Corrective Action Implementation**

A. When discrimination and/or harassment is found, remedies, including corrective action, 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, written reprimands, removal of University privileges, removal or suspension from programs, activities and organizations, restrictions on movement on campus, including prohibitions from certain facilities, suspensions, or other action up to and including termination or expulsion. Corrective action will be implemented 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.

## **XVI. 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.

## **XVII. 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.

### **XVIII. Record Keeping**

The Office for Institutional Equity will maintain documentation of 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.

**Approved: Director, OIE, January 2016**