



Investigative Resolution Standards

These standards support the consistent implementation of the Sexual Misconduct Policy, 1.15 and the Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment Policy, 1.10 by establishing required practices for handling Policy investigations under these policies. These requirements are designed to be read and followed in conjunction with the Sexual Misconduct Policy and the Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment.

All individuals and units that conduct investigations and adjudications on behalf of the Office of Institutional Equity (OIE) must comply with these requirements.

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I. Purpose and Scope

- A. The Investigative Resolution Standards are intended to be the procedures used to address allegations made against students and employees pursuant to The Ohio State University Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment Policy, 1.10 and The Ohio State University Sexual Misconduct Policy, 1.15. This document should be read in conjunction with those policies.

II. Jurisdiction, Reporting Options, Privacy and Confidentiality, Prohibited Conduct, and Resources

- A. Please see The Ohio State University Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment Policy, 1.10 and The Ohio State University Sexual Misconduct Policy, 1.15 for guidance related to these topics.

III. Investigative Resolution Standard Modifications

- A. These Investigative Resolution Standards shall govern all procedures in matters brought after becoming effective except to the extent that, in the discretion of the university, the application in a particular action pending would not be feasible, in which event prior procedure shall be used. The university will give parties notice of the procedures that will be used. The definitions of prohibited conduct used in a particular matter will be the definitions found in the relevant policy in effect at the time the alleged conduct occurred.
- B. The university reserves the right to modify these Investigative Resolution Standards. Modifications become effective upon approval by the Associate Vice President of the Office of Institutional Equity or designee.

IV. Conduct that May Violate Other Policies

- A. When reported conduct may violate this policy and other university policies, the Associate Vice President of the Office of Institutional Equity or designee will consult with the appropriate university office(s) to determine how the matter should be investigated and adjudicated. This may, but is not required to, involve a joint investigation by more than one office.
- B. The office or process used to investigate and adjudicate the matter is within the sole discretion of the university except as required by other applicable university rules or policies, but procedures set forth in these Investigative Resolution Standards and in the Affirmative Action, Equal Employment, and Non-Discrimination/Harassment policy and Sexual Misconduct policy, as applicable, will be used to investigate and adjudicate alleged violations of those policies. The Associate Vice President of the Office of Institutional Equity or designee may refer possible violations of other university policies to an appropriate office at any time.

V. Supportive Measures

- A. As referenced in Policies 1.10 and 1.15, upon receipt of a report of discrimination, harassment, sexual misconduct, or retaliation, the university will provide reasonable and appropriate supportive measures to the complainant and the respondent. These measures are designed to restore or preserve equal access to the university's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment.
- B. All parties will have access to a trained Civil Rights Intake Coordinator. Civil Rights Intake Coordinators are responsible for assisting parties in arranging supportive measures. In addition, Civil



Rights Intake Coordinators provide assistance with connecting to campus and community resources. Supportive measures are non-disciplinary and non-punitive in nature and offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

- i. The parties will have an ability to identify any potential conflicts with the Civil Rights Intake Coordinator assigned and present them to the Director of Intake and Investigations or designee for review. If a conflict is identified, a new Civil Rights Intake Coordinator will be assigned.
- C. Supportive Measures for complainants and respondents will be assessed on a case-by-case basis depending on the circumstances and may include:
 - i. Mutual no contact directives;
 - ii. Referral to campus and community, advocacy, counseling, disability services, financial aid services, health services, immigration services, safety and transportation services;
 - iii. Extensions of deadlines or other class adjustments;
 - iv. Modification of work or class schedules;
 - v. Change in work or housing locations;
 - vi. Change in reporting relationship;
 - vii. Consideration of leave requests;
 - viii. Assistance with academic petitions;
 - ix. Removal of a program participant, supplier/contractor, volunteer, or visitor;
 - x. Safety planning;
 - xi. Information about protection orders
 - xii. Remove public directory information; or
 - xiii. Other measures deemed appropriate by OIE.
- D. All individuals are encouraged to report to OIE any concerns about the failure of another to abide by the terms of a supportive measure.

VI. Emergency Removal

- A. As provided by policy 1.10 and 1.15, the university may remove a respondent from a university's education program or activity on an emergency basis pursuant to conduct prohibited by policy 1.10 and 1.15. If after review of relevant information known at the time the university determines that the respondent presents an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct justifies removal, the university may remove the respondent from the university's education program or activity or any part of the university's education program or activity.
- B. The Assistant Director of Intake & Interim Measures in the Office of Institutional Equity or designee will determine if an emergency removal is warranted.
 - i. Notice to the respondent may be initially given verbally and will be formally communicated in writing, which will outline the steps a respondent can take to challenge the decision immediately following the removal.
 - ii. The respondent can then immediately challenge by submitting in writing their rationale for challenging the emergency removal. The challenge will then be considered by the Assistant Director of Intake & Interim Measures or designee, who will respond by the end of the next business day.
- C. Violation of an emergency removal will be grounds for discipline, which may include dismissal.



VII. Overview of Investigative Resolution Process

- A. Overview of Resolution Process: The resolution process is initiated when the university receives a report of a potential violation of Policy 1.10 and/or 1.15. After receiving a report, OIE will conduct an initial assessment. An initial assessment may include, but is not limited to, evaluating whether the report implicates a policy enforced by OIE, whether the parties are within the jurisdiction of OIE, and whether the report implicates a safety threat or other concern such that OIE must report the concern to law enforcement or other appropriate authority. OIE will then determine the most appropriate means for addressing the report after contacting the complainant (i.e., the alleged victim of the misconduct reported). Options include:
- i. Receipt of Supportive Measures: A complainant may elect not to file a formal complaint and simply receive supportive measures. The university will defer to a complainant's request in this respect unless the Title IX Coordinator or OIE Director or designee determines that a formal complaint must be filed.
 - ii. Formal Complaint: A complainant will have the opportunity to learn about the investigation process. If the complainant wishes to initiate an investigation, the complainant will submit a formal complaint.
 - a. OIE will determine type of complaint based on information reported:
 1. Title IX formal complaint: For a Title IX formal complaint, a complainant must be participating in or attempting to participate in the university's education program or activity at the time of filing the formal complaint.
 2. OIE formal complaint: Harassment, discrimination, or sexual misconduct that does not fall under Title IX as outlined by the policy.
 - b. In a case where a complainant does not wish to file a formal complaint, the Title IX Coordinator or OIE Director or designee may file a formal complaint when deemed appropriate, as provided by the applicable policy.
 - iii. Dismissal of an OIE formal complaint
 - a. If the alleged behavior in an OIE formal complaint, if true, does not meet the definition of a policy violation, an OIE director or designee may dismiss the formal complaint.
 - b. The university, at its discretion, may dismiss an OIE formal complaint or any allegations therein, if at any time during the investigation or hearing a complainant notifies OIE in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled at or employed by the university; or specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
 - c. If the formal complaint is dismissed, the investigative process will cease, but a remedy may still be appropriate.
 - d. Upon a dismissal, the matter may be referred to other resolution processes or other appropriate university processes or action.
 - iv. Dismissal of a Title IX Formal Complaint
 - a. The university must investigate the allegations in a Title IX formal complaint. If the conduct alleged in the Title IX formal complaint would not constitute sexual harassment under Title IX even if proved, did not occur in the university's education program or activity, or did not occur against a person in the United States, then the university must dismiss the Title IX formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. Such a dismissal does not preclude action under another provision of this policy or another university policy.



- b. The university, at its discretion, may dismiss a Title IX formal complaint or any allegations therein, if at any time during the investigation or hearing a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled at or employed by the university; or specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
 - c. Upon a dismissal, the university must promptly send written notice of the dismissal and reason(s) simultaneously to the parties. The matter may be referred and reviewed under the OIE formal complaint process or other appropriate university process.
 - v. Investigative Resolution Process: If an investigation resolution proceeds, it can include four stages: Investigation, Adjudication, which may include a Hearing, Sanction, and Appeal.
 - B. OIE is committed to providing a prompt, fair, impartial, and equitable resolution of all matters referred for investigative resolution.
 - i. Timeframes. A typical investigation will vary depending on factors such as the complexity of the investigation and the severity and extent of the alleged discrimination, harassment, and sexual misconduct. Parties will be updated on the status of the investigation.
 - a. Conducting the investigation, which includes interviewing parties and witnesses and reviewing documentation (90 business days), which includes but is not limited to:
 - 1. Providing parties an equal opportunity to inspect and review any evidence, as outlined in the policy (10 business days);
 - 2. Providing parties the opportunity to submit a written response to the preliminary investigative report (10 business days)
 - b. Hearing (if applicable) and written determination issuance (30 business days)
 - c. Appeals (30 business days)
 - ii. The timeframes listed above are an approximation; the investigation resolution process could be longer or shorter. Other factors may affect one or more parts of the timeframe, including and not limited to, the complexity, severity, and extent of the alleged sexual misconduct, discrimination, or harassment. The process may be extended as determined appropriate by OIE if necessary for reasons such as illness, holidays, unavailability of parties or witnesses, complexity of the case, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

VIII. Investigation of a Formal Complaint

A. Written Notice

- i. If a formal complaint is filed, OIE shall send the respondent(s) and the complainant(s) written notice that may be presented by email to the respondent's official university email address or by text message (which may direct the respondent to view the notice on a secure website), by other form of electronic communication specific to the respondent's contact information on file with university, by placement in the respondent's residence hall mailbox, or hand-delivery to any employee or student respondent. The written notice must:
 - a. Explain the university's investigative resolution process, including any informal



- resolution options;
 - b. Describe the allegations potentially constituting misconduct, including sufficient details known at the time; including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident, if known;
 - c. Include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
 - d. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
 - e. Inform the parties of provisions in this policy that prohibit knowingly making false statements or knowingly submitting false information during the grievance process; and
 - f. Be provided with sufficient time for the parties to prepare a response before any initial interview.
- ii. Additionally, when the written notice is sent to the parties, OIE will:
 - a. Provide a copy of the applicable university policy and OIE Investigative Resolution Standards;
 - b. Identify the Civil Rights Investigator(s) who will conduct the investigation;
 - 1. The parties will have an ability to identify any potential conflicts with the Civil Rights Investigator officer and present them to the Director of Intake and Investigations or designee for review. If a conflict is identified, a new Civil Rights Investigator will be assigned.
 - c. Identify the Civil Rights Intake Coordinator who can assist with supportive measures;
 - iii. If, in the course of an investigation, the university decides to investigate allegations about the complainant or respondent that are not included in the notice, the university must provide notice of the additional allegations to the parties whose identities are known.
 - iv. A formal complaint may be dismissed or consolidated based on the parameters identified in Sexual Misconduct Policy, 1.15 and the Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment Policy, 1.10 and as described above. A Title IX formal complaint must be dismissed under the circumstances described therein.
 - v. Non-participation. Because the most accurate and fair review of the facts can best be accomplished when all parties are present, all parties and witnesses are strongly encouraged to attend and participate. If an individual does not choose to attend a hearing, the matter will be reviewed as scheduled on the basis of the information available, and a decision will be made. No inference may be drawn against a party for failing to attend a hearing or remaining silent. When a hearing is held, the conclusion will be based on the relevant evidence presented and that is not otherwise excluded by operation of these procedures and/or relevant policies. No decision shall be based on the failure of the respondent or the complainant to attend the hearing or answer the allegations.

B. Evidence and Fact Gathering

- i. The investigator, not the complainant or the respondent, is responsible for gathering relevant evidence to the extent reasonably possible.
- ii. Both parties will have the opportunity to meet with the investigator and provide a statement and will be given the opportunity to identify fact and expert witnesses, provide other relevant inculpatory and exculpatory information, such as documents, communications, photographs,



and other evidence.

- iii. For Title IX matters, the investigator will obtain a party's voluntary, written consent in order to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party.

C. Review of Evidence

- i. Following the fact gathering, the Civil Rights Investigator will provide parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- ii. The access to evidence will be provided in an electronic format.
 - a. If a party requires access in a different format, they should make a request to the Civil Rights Investigator, as soon as reasonably possible, and that request will be reviewed.
- iii. The parties will have ten (10) business days for the parties to submit a written response, which the investigator will consider prior to completion of the investigative report.

D. Investigation Report

- i. Following the submission of written responses, if not waived, by both parties, the Civil Rights Investigator will provide an investigative report that fairly summarizes relevant evidence, in an electronic format at least ten (10) business days prior to a hearing to each party and each party's advisor, if any, for their review and written response.
 - a. If a party requires access in a different format, they should make a request to the Civil Rights Investigator, as soon as reasonably possible, and that request will be reviewed.
- ii. After the delivery of the investigation report, the matter will proceed to hearing, where applicable, unless both parties voluntarily agree to informal resolution in lieu of a hearing, pursuant to the requirements listed in the relevant policies.
- iii. If the matter proceeds to hearing, the investigator will provide the investigative report to the Director of Resolutions or designee to facilitate a hearing.
- iv. If the matter does not require a hearing pursuant to the applicable policy, the investigator will prepare a written investigative report that includes a summary of the facts gathered during the investigation, analysis, and findings.

XIII. Hearing and Adjudications

- A. Hearings are available for OIE formal complaints involving student respondents and Title IX formal complaints.
 - i. Notice of Hearing.
 - a. If a hearing is to be held, written notification will be provided to the respondent and complainant. The notice will be given to the parties no fewer than ten (10) business days prior to the hearing. Unless already provided to the respondent, the notification will include the relevant policy, OIE Investigative Resolution Standards, date, time, and location of the hearing, and the designated resolutions officer.
 - ii. Postponement.



- a. The respondent and the complainant may request a postponement for reasonable cause to the Director of Resolutions, the resolutions officer, or designee. A request for a postponement for reasonable cause must be made in writing, include supporting rationale and be received by the person sending the hearing notification at least three (3) business days, absent extraordinary circumstances, before the scheduled hearing. The university reserves the right to reschedule the hearing for the first available date.
- iii. Resolutions Officer
 - a. The resolutions officer may be a single university administrator or an external adjudicator.
 - b. Any person serving as a resolutions officer must be impartial and free from actual bias or conflict of interest for or against either party or bias for or against complainants and respondents, generally.
 - c. The parties will have an ability to identify any potential conflicts of interest with the resolutions officer prior to the hearing and present them to the Director of Resolutions or designee for review. If a conflict of interest is identified, a new resolutions officer will be assigned.
 - d. Any person serving as a resolutions officer will be adequately trained to resolve cases of alleged sexual misconduct and familiar with applicable policies and procedures. (Training material can be found at <https://titleix.osu.edu/navigation/policy/title-ix-regulations-training.html>.)
 - e. Any person serving as a resolutions officer will be adequately trained regarding any technology that be used in any hearing procedure.
- iv. Attendance.
 - a. Because the most accurate and fair review of the facts can best be accomplished when all parties are present, all parties and witnesses are strongly encouraged to attend and participate. If an individual chooses not to attend a hearing, the hearing will proceed as scheduled and a determination of the formal complaint will be made based on the relevant evidence presented at the hearing and not otherwise excluded by operation of these procedures and/or applicable policies. No inference may be drawn against a respondent for failing to attend a hearing or remaining silent. No decision shall be based on the failure of the respondent or the complainant to attend the hearing or answer the allegations.
 - b. Live hearings pursuant to this paragraph may be conducted with all parties physically present in the same geographic location or, at the university's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
 - 1. When applicable, and the request of either party, the university will provide for the hearing to occur with the parties located in separate rooms with technology enabling the resolutions officer or designee(s) and parties to simultaneously see and hear the party or the witness answering questions.
- v. Record of Proceedings.
 - a. A recording in a format determined by the university will be created of any hearing and made available to the parties for inspection and review.
- vi. Evidentiary Standards.
 - a. Standard of Evidence.
 - 1. A respondent will only be found in violation if a preponderance of evidence supports the alleged conduct.



2. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all of the evidence and reasonable inferences from the evidence, that the respondent violated the policy.
 3. If the evidence weighs so evenly that the resolutions officer is unable to say there is a preponderance of evidence on either side, the resolutions officer must determine that there is insufficient evidence to conclude that a violation of the policy occurred.
 - vii. Sexual history in sexual misconduct cases.
 - a. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
 - viii. Prior acts/pattern evidence
 - a. The investigator and/or the resolutions officer will review, if available, any information related to prior misconduct if relevant and probative to the alleged conduct at issue, such as that it demonstrates a pattern of behavior. In such circumstances, the prior information may be used as evidence in the investigative resolution process.
 - ix. Questioning of Witnesses.
 - a. The respondent and complainant, through their respective advisors, have the opportunity to ask direct questions of all witnesses and each other. The resolutions officer may also ask questions of the parties and all witnesses. The resolutions officer may ask participants to rephrase questions that are abusive and may limit questions that are repetitive.
 - b. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the resolutions officer or designee(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - x. Expert Witnesses
 - a. The resolutions officer may appoint individuals with appropriate expertise to serve as consultants to the resolutions officer. The consultant may be present and provide information as called upon during the hearing, but will not vote.
 - b. Parties can also provide expert witnesses to be interviewed and serve as witnesses at a hearing.
 1. The testimony of an expert witness must be deemed relevant in order to be included in the hearing, like all other testimony in the hearing, and may be excluded as irrelevant.
 - xi. Advisor Participation
 - a. The university expects that any party's advisor will adhere to the requirements and expectations outlined in the Discrimination, Harassment, and Sexual Misconduct Advisor Form, which includes the advisor acknowledgement.
- B. Adjudication of OIE Formal Complaints Not Involving Student Respondents
- i. For OIE formal complaints where a hearing is not provided pursuant to the applicable policy, the investigator will prepare a written investigative report summarizing the facts gathered



during the investigation, analysis, and findings.

XIV. Sanctions and Corrective Action

A. Sanctioning for Students

- i. In cases where the respondent accepts responsibility pursuant to an informal resolution, the Director of Resolutions or designee will determine the sanctions.
- ii. In cases that result in a hearing, the resolutions officer or designee will determine the sanctions.
- iii. Any sanctions imposed by OIE will be referred to the Office of Student Conduct to manage. Managing sanctions includes:
 - a. Monitoring deadlines,
 - b. Responding to requests for extensions,
 - c. Verification of satisfactory completion of educational sanctions and compliance with stipulations,
 - d. Identifying appropriate supportive resources to assist students throughout the sanctioning period and, if applicable, upon the return to campus after a period of suspension,
 - e. Maintaining disciplinary records resulting from the investigatory and adjudicatory process in accordance with Student Conduct retention and reporting policies.
- iv. Sanctions should be commensurate with the violations found to have occurred. In determining the sanction(s) to be imposed, the resolutions officer and/or Director of Resolutions or designee should take into account any mitigating circumstances and any aggravating factors including, but not limited to:
 - a. any past misconduct by the student,
 - b. any failure of the student to comply fully with previous sanctions,
 - c. the actual and potential harm caused by the violation,
 - d. the degree of intent and motivation of the student in committing the violation,
 - e. any provocation by the subject of the conduct that constituted the violation, and
 - f. the severity and pervasiveness of the conduct that constituted the violation.
 - g. misconduct, not including constitutionally protected expression, motivated by bias based on age, ancestry, color, disability, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, race, religion, sex, sexual orientation, or veteran status may be considered an aggravating factor for sanctioning.
 - h. impairment resulting from voluntary use of alcohol or drugs (i.e., other than medically necessary) will also be considered an aggravating, and not a mitigating, factor.
- v. One or more of the following sanctions may be issued when a student has been found to have violated university policy:
 - a. Formal reprimand
 1. A written letter of reprimand resulting from a student's misconduct.
 - b. Disciplinary probation.
 1. This probationary condition is in effect for a specified period of time and may involve the loss of specified privileges. Further violation of university rules, policies, standards, or guidelines during the probationary period will additionally be viewed as a violation of the probation, which shall result in



further action up to and including suspension or dismissal.

c. Suspension.

1. Suspension is a sanction that terminates the student's enrollment at the university for a specified period of time. Satisfactory completion of specified stipulations may be required for readmission at the end of the suspension period.
2. Suspension in Abeyance. Under special circumstances, the hearing body may hold the imposition of suspension in abeyance, which would allow for the student's continued enrollment so long as the student adheres to all stipulations, restrictions, or conditions imposed by the hearing body

d. Dismissal

1. Dismissal is a sanction which permanently separates a student from the university without opportunity to re-enroll in the future.

vi. Conditions of suspension and dismissal.

- a. Unless a student is otherwise notified in writing, a suspension or dismissal will not take effect until after the appeal period. A student who has been dismissed or suspended from the university shall be denied all privileges afforded a student (including, but not limited to participation in university sponsored or sanctioned events or activities) and shall be required to vacate campus at a time determined by the resolutions officer.
- b. In addition, after vacating campus property, a suspended or dismissed student may not enter upon campus and/or other university property at any time, for any purpose, in the absence of expressed written permission from the Associate Vice President of the Office of Institutional Equity or designee. To seek such permission, a suspended or dismissed student must file a written petition to the Associate Vice President of the Office of Institutional Equity for entrance to the campus for a limited, specified purpose or to have the terms of this condition modified or reduced.

vii. Other sanctions and remedies.

- a. Other appropriate sanctions may be imposed by a hearing body singularly or in combination with any of the above-listed sanctions. Examples include, but are not limited to, making restitution for property damage or misappropriation of university property or services, or the property of any person, residence hall contract termination or reassignment to another room, restriction of access to specified campus facilities and/or property, research assignments, community service projects, special workshop participation, and/or a risk assessment or other referral to medical resources or counseling personnel.

B. Corrective Action and Discipline for Employees

- i. For Title IX matters, if after a hearing, there is a finding that Policy 1.15 has been violated:
 - a. In cases involving staff, the appropriate corrective action will be determined by the Employee and Labor Relations team, and implemented in collaboration with the employee's supervisor and any other appropriate Human Resources professionals, in accordance with the Corrective Action and Involuntary Termination policy, Student Employment policy, and /or applicable collective bargaining agreements.
 - b. In cases involving faculty, discipline regarding policy violations must be implemented in accordance the Faculty Rule 3335-5-04 process.
- ii. For OIE formal complaints where a hearing is not provided by the applicable policy, if there is a finding that Policy 1.10 or 1.15 has been violated:



- a. In cases involving staff, the appropriate corrective action will be determined by the Employee and Labor Relations team, and implemented in collaboration with the employee's supervisor and any other appropriate Human Resources professionals, in accordance with the Corrective Action and Involuntary Termination policy, Student Employment policy, and /or applicable collective bargaining agreements.
- b. In cases involving faculty, formal misconduct complaints regarding policy violations or other inappropriate behavior must be pursued through the Faculty Rule 3335-5-04 process, and non-disciplinary measures may be implemented by the faculty member's chair or dean if appropriate. The parties will be informed of the outcome and any imposed sanctions or corrective action.
- iii. For OIE formal complaints where a hearing is not provided by the applicable policy, if there is finding that the respondent has not violated Policy 1.10 or 1.15:
 - a. The matter may be forwarded to the appropriate Employee Relations or Human Resources professional who will determine if the employee-respondent engaged in inappropriate or unprofessional conduct and what action or response is appropriate.
- iv. Regardless of whether an employee respondent is found not responsible or responsible for violating the policy, a referral to other investigative units and/or additional resolution processes may be appropriate if the alleged conduct may violate another university policy. Other options, including interim measures and support services, remain available to both the complainant and respondent.

XV. Written Determination and Notification of Findings

- A. Pursuant to the Sexual Misconduct Policy, 1.15 and the Affirmative Action, Equal Employment Opportunity & Non-Discrimination/Harassment Policy, 1.10, the parties will receive a written determination regarding responsibility.
- B. Notice of Finding: The parties will receive notice of findings simultaneously, in writing, including notice of all corrective action imposed.
- C. The parties will be notified of the university's procedures for appeal, the results of any appeal, any change to the result, and when such results become final.

XVI. Appeals

- A. Right to appeal.
 - i. Parties have the right to appeal a determination or dismissal. The appeal is not intended to re-hear or re-argue the same case and is limited to the specific grounds outlined in university policy. A formal complaint that is resolved by informal resolution is not subject to appeal unless the right of appeal is included as a specific part of the informal resolution.
 - ii. The appeal must state the specific grounds for the appeal and should include all supporting documentation. The appeal must be postmarked or hand delivered to the appropriate appeal officer, or sent via email, as provided below, within five (5) business days after the date on which notice of the decision is sent to the parties.
 - iii. Grounds for appeal. An appeal may be based only upon one or more of the following grounds:
 - a. Procedural irregularity that affected the outcome of the matter;
 - b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - c. The Title IX Coordinator or OIE Director as applicable, investigator(s), or resolutions officer or designee(s) had a conflict of interest or bias for or against



- complainants or respondents generally or the individual complainant or respondent specifically that affected the outcome of the matter; and/or
- d. The sanction is clearly inappropriate and is not commensurate with the seriousness of the offense.
- iv. A respondent who has accepted responsibility for violating Policy 1.10 or 1.15 waives the right to appeal, except on the basis that the sanction is clearly inappropriate and is not commensurate with the seriousness of the offense.
- B. Appeal procedures.
 - i. Timing. Appeals must be submitted in writing to the Director of Education and Engagement in the Office of Institutional Equity or designee within five (5) business days after the notice of finding or outcome is issued.
 - a. Any extensions to the appeal date may be made at the discretion of the Director of Education and Engagement in OIE or designee.
 - ii. The appeal should indicate the specific basis for the appeal. Where the Director of Education and Engagement in OIE or designee does not find that one of the bases is clearly articulated, or if the appeal is untimely, they will dismiss the appeal.
 - a. If the appeal is dismissed, the findings will stand, and the rebuttal will be retained in the investigation file. In such instances, the other party will still have the opportunity to provide a written response to the rebuttal to be retained in the file, which will be due five (5) business days after notification is received.
 - iii. A party must provide specific information to articulate that one or more of the grounds of appeal could be met. Vague or blanket assertions or assertions unsupported by specific facts or information are insufficient.
 - a. If a facially appropriate appeal is filed, then the Director of Education and Engagement will notify the other party about the filing of the appeal and will allow the other party five (5) business days to respond to the appeal.
 - b. Once all appeal documents are received, the appeal and all supporting documentation will be submitted to the appeals officer for review.
 - iv. Regardless of whether a party is able to articulate a basis for appeal, or chooses not to submit an appeal, they may submit a rebuttal that will be maintained as part of the investigation file. Whenever a rebuttal is submitted, the other party will have the opportunity to respond and their response will be due five (5) business days after notification is received.
 - v. Neither party is required to respond to an appeal. Not responding to an appeal does not imply agreement with the appeal.
 - vi. Each party shall be limited to one appeal of a decision of a resolutions officer. The decision of the appeal officer is final.
- C. Additional Appeals Information
 - i. Appropriate appeal officers.
 - a. Appeals of a decision that meet the aforementioned appeal bases will be submitted for decision to an appeals officer.
 - ii. Appeal proceedings.
 - a. The appeal officer will decide the appeal based upon a review of the record and supporting documents (e.g. prior disciplinary history).
 - b. All appeals are documentary reviews, no interviews or meetings are conducted.



- iii. Possible dispositions by the appeal officer. The appeal officer may, after a review of the record:
 - a. Uphold the original decision and/or sanction(s) or corrective action;
 - b. Dismiss the case or individual finding against the respondent and vacate any portion or all of the sanction(s)/corrective action;
 - c. Modify, reduce, or increase the sanction(s)/corrective action ;
 - d. Remand the case to the original hearing body or refer the case to a new resolutions officer to be reheard. Cases may be remanded for the purpose of considering a specific issue(s) or for a new hearing. If a case is reheard by a resolutions officer and the respondent is found in violation, the sanction/corrective action imposed can be greater or lesser than that imposed at the original hearing.
 - 1. The appeal procedures above apply to the outcome of a remanded hearing.

XVII. Additional Information

- A. Designees for Investigative Resolution Process: The Associate Vice President of the Office of Institutional Equity or designee may designate, at its discretion, internal or external designees to perform any of the aforementioned functions outlined in this process including, but not limited to, investigations, adjudications, informal resolutions, and appeals. The designee must adhere to the requirements of applicable university policy and the Investigative Resolution Standards.
 - i. The Associate Vice President of the Office of Institutional Equity or designee retains the discretion to determine whether the use of an internal or external designees to conduct investigations, adjudications, or any other provision of policy 1.10 or 1.15 is appropriate. The Associate Vice President of the Office of Institutional Equity or designee may consult with other appropriate university offices to determine whether use of an internal or external designee is warranted as well as the appropriate manner in which to engage such designee.
 - ii. Any internal or external designees shall have adequate training and qualifications, as determined by the university, to conduct a prompt, fair, impartial, and equitable investigation, adjudication, or any other provision of policy 1.10 or 1.15.
 - iii. Any internal or external designee(s) that is designated to address an allegation must adhere to the requirements of applicable university policy, the Investigative Resolution Standards, and applicable law.

History

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