



Appendix B - Procedures for Resolving Reports Against Employees

I. Overview of Procedural Options (Employees)

Any person may make a report against any employee for alleged violation(s) of a University policy, rule, regulation, or standard of conduct. Although a report may come in through many sources, the University is committed to ensuring that all reports of Discrimination, Harassment and Bias Incidents are referred to the Office for Institutional Equity and Inclusive Culture (EIC), who will ensure consistent application of the policy to all individuals and allow the University to respond promptly and equitably to eliminate or end the prohibited conduct, prevent its recurrence, and address its effects.

Upon receipt of a report, the University will conduct an initial assessment, described in this Policy as an EIC Inquiry. The EIC Inquiry will consider the nature of the report; the safety of the Complainant, any other individual and of the broader campus community; the Complainant's expressed preference for resolution; and the necessity for any interim remedies or accommodations to protect the safety of the Complainant or the community.

If the complaint involves an allegation that a bias or harassment incident(s) in an academic setting created a hostile educational environment in violation of this Policy either party to the complaint may request review by the Faculty-Student Bias Conduct Review Board. See Faculty-Student Bias Conduct Review Board.

Following the EIC Inquiry, the University may, at the discretion of the Equal Opportunity and Title IX Coordinator 1) seek a voluntary and informal resolution that does not involve disciplinary action against a Respondent, such as mediation or conflict coaching; or 2) initiate an EIC Investigation to determine whether a violation has occurred. Each resolution process is guided by the same principles of fairness and respect for all parties. Resources are available for all parties, whether as Complainants or Respondents, to provide support and guidance throughout either process. Reasonably available interim measures will be provided regardless of the chosen course of action.

II. Voluntary and Informal Resolution (Employees)

EIC encourages, where appropriate, the use of voluntary and informal resolution to address allegations of harassment and bias incidents and to ensure an inclusive educational and work environment for all members of our University community. Where the EIC Inquiry concludes that an alternative to an EIC investigation may be appropriate,

the University will offer mediation, but will not compel a Complainant or a Respondent to engage in mediation or to participate in any particular form of resolution. Mediation will not be offered or used in cases involving violence. Participation in informal resolution is voluntary, and a Complainant or a Respondent can request to end the informal resolution process at any time.

At all times, the University will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational, extracurricular and employment activities at the University and to eliminate a hostile environment.

Examples of protective measures and accommodations are outlined in the Interim Measures section of this Policy. Other potential remedies include targeted or broad-based educational programming or training, supported direct confrontation of the Respondent and/or indirect action by the Equal Opportunity and Title IX Coordinator or their designee or other University Administrator. Depending on the form of voluntary and informal resolution used, it may be possible for a Complainant to maintain anonymity.

The Office for Institutional Equity and Inclusive Culture will maintain records of all reports and conduct resolved through voluntary and informal resolution, which will typically be completed within sixty (60) business days of the initial report.

III. EIC Investigation (Employees)

As described in this Policy, the University, through the Office for Institutional Equity and Inclusive Culture, will designate an investigator of its choosing. Any investigator used by the University, whether internal or external, must have specific training and experience investigating allegations of bias, harassment and discrimination. The investigation will attempt to be thorough, impartial and fair, and all individuals should be treated with the appropriate sensitivity and respect.

The first step of an investigation will be notification of both Complainant and Respondent that an investigation is being initiated, followed usually by preliminary interviews of the Complainant and the Respondent by a member of the EIC investigative team, or an investigator designated by the Equal Opportunity and Title IX Coordinator. The investigator will then coordinate the gathering of information from the Complainant, the Respondent, and any other individuals who may have information relevant to the determination. The investigator will also gather any available physical or medical evidence, including documents, communications between the parties, and other electronic records as appropriate. The investigator will determine the relevancy of any proffered information. The investigator will not consider statements of personal opinion and statements as to any party's general reputation for any character trait. Personal information from those that know the Complainant or the Respondent may be considered, as long as it is relevant to the case and based on first-hand observation.

Complainants are encouraged, but never pressured, to participate in the University's investigation and disciplinary process so that the facts of each report can be explored and

responsible parties held accountable for their misconduct, if warranted. If a Complainant chooses not to participate in a full investigation and/or disciplinary proceeding, the University may assist the Complainant in seeking a voluntary and informal resolution. When a Complainant requests that an investigation not occur, the University will make every reasonable effort to comply with that request. As explained more fully in this Policy, there may be exceptional circumstances when the University decides to proceed with an investigation despite the request of a Complainant.

The investigator will consider the following factors when assessing the credibility of parties and the witnesses: consistency or inconsistency of accounts of events over time; demeanor during the hearing, motive to lie; corroborating evidence; and reasonable and logical statements and details.

At the conclusion of the fact gathering phase of the investigation, the Complainant and Respondent shall both be given an opportunity to review a draft investigative report and offer any additional information or comment or request that additional investigative steps be taken. After review of the draft investigative report, a party will have five business days, absent extenuating circumstances, to submit additional questions for witnesses or parties, submit additional information not previously available to the providing party or clarification or rebuttal of information in the investigative report to the investigator for consideration.

After incorporating any comments by the parties, the investigator, in consultation with the Equal Opportunity and Title IX Coordinator, will make a determination whether a policy violation has occurred.

Upon the conclusion of an investigation, both parties will be advised in writing of the investigator's determination. The parties will have the opportunity to meet with the Equal Opportunity and Title IX Coordinator to review the investigative report, the finding, and discuss next steps, including under certain circumstances a review and recommendation by the Faculty- Student Bias Conduct Review Board (addressed below).

IV. Faculty-Student Bias Conduct Review Board (Employees)

If the complaint involves an allegation that a bias or harassment incident(s) in an academic setting created a hostile educational environment in violation of this Policy then either party to the complaint may request review by a Faculty-Student Bias Conduct Review Board.

The Faculty-Student Bias Conduct Review Board ("Bias Conduct Review Board") will be made up of an equal number of faculty members and students. One or two faculty members from each College of School will be elected from the faculty in each College and School to sit on the Bias Conduct Review Board. Students will be selected from the current Student Conduct Board and must have been an active Student Conduct Board member for at least two terms. All members of the Bias Conduct Review Board will receive annual training from the Office for Institutional Equity and Inclusive Culture.

Once a request for review by the Bias Conduct Review Board is made to the Equal Opportunity and Title IX Coordinator, the following steps will be taken:

- The Equal Opportunity and Title IX Coordinator will inform the Senior Vice Provost for Faculty Affairs that a request for review by the Bias Conduct Review Board has been made.
- The Senior Vice Provost for Faculty Affairs, who will chair the Bias Conduct Review Board, will then remove faculty in the Respondent's College or School and then randomly select three faculty members and three students from the Bias Conduct Review Board to make up the panel. One alternate faculty member and student will also be selected to serve as part of the panel as needed. All panel members must be free from conflicts of interest and make a commitment to maintain confidentiality of the information they will receive. Furthermore, each member of this panel must acknowledge that he or she understands that breach of such confidentiality could lead to disciplinary action up to and including expulsion or termination from the University. As Chair, the Senior Vice Provost will schedule and direct meetings and will have voice but not vote on the recommendations of the Panel.
- The EIC investigator shall within 5 days of the selection of the Bias Conduct Review Panel provide the Panel with EIC's investigative report.
- The Panel will then review the report of the EIC investigator and make its own written recommendations to the Office of the Provost and the Equal Opportunity and Title IX Coordinator regarding whether the actions of the Respondent created a hostile educational environment in violation of this Policy. The panel's written recommendations will include the individual findings upon which its recommendations are based. The panel's recommendation will be considered by the Office of the Provost and the Equal Opportunity and Title IX Coordinator.

V. Disciplinary Action (Employees)

If the determination has been made that a policy violation has occurred, the Equal Opportunity and Title IX Coordinator, or his/her designee will coordinate any disciplinary action with Human Resources and the respondents' supervisor and/or other appropriate administrators with oversight over the relevant unit.

If a faculty member is found by EIC to have violated this policy, the dean of the college, school, or center and the department head in which the faculty member has his or her primary appointment, in consultation with EIC, will determine the appropriate disciplinary action to be taken against the faculty member to address the violation and to prevent its reoccurrence. The dean of the relevant college, school, or center will consult with the Provost, as needed, or if the disciplinary action contemplated is termination.

VI. Discipline Guidelines for Violations of the Discrimination, Harassment, and Bias Incident Prevention Policy (Employees)

The University considers the discipline listed below to be guidelines when addressing Discrimination, Harassment, and Bias Incident Policy violations. Each incident is reviewed on an individual basis. The Policy prohibits a broad range of behaviors, all of which are serious in nature. Depending on the specifics of the incident, more or less severe sanctions may be imposed.

In determining the appropriate discipline, the University shall consider the following factors:

- the nature and degree of violence of the conduct at issue;
- the impact of the conduct on the Complainant or other appropriate parties;
- the impact or implications of the conduct on the community or the University;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere (if known), including criminal convictions;
- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful educational and employment environment;
- protection of the University community; and,
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Discipline that may be imposed under this policy include:

Warning: Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.

Educational Requirements: Completion of training, projects, programs, or requirements designed to help the employee manage behavior and understand why it was inappropriate. Includes appropriate and relevant community service opportunities.

Formal Performance Improvement Plan – see Performance Improvement Process Policy, H.R. 43.

Restitution: Repayment to the University or to an affected party for damages resulting from the policy violation.

Suspension: Exclusion from University premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the employee's file. Conditions for return to work may be specified in the suspension notice.

Termination: Permanent termination of employment status and exclusion from University premises, privileges, and activities. This action will be permanently recorded in the employee's file.

Other sanctions may be imposed instead of, or in addition to, those specified here. More than one of the sanctions listed above may be imposed for any single violation.

VII. Sanction Guidelines for Violating the Discrimination, Harassment, and Bias Incident Prevention Policy (Students)

The University considers the sanctions listed below to be guidelines when adjudicating Discrimination, Harassment, and Bias Incident Prevention Policy violations. Each incident is reviewed on an individual basis. The Policy prohibits a broad range of behaviors, all of which are serious in nature. Depending on the specifics of the incident, more or less severe sanctions may be imposed.

In determining the appropriate sanction, the adjudicator shall consider the following factors:

- the nature and degree of violence of the conduct at issue;
- the impact of the conduct on the Complainant or other appropriate parties;
- whether a power differential existed between the Complainant and the Respondent;
- the impact or implications of the conduct on the community or the University;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere (if known), including criminal convictions;
- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful environment conducive to learning;
- protection of the University community; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Sanctions that may be imposed under this policy include:

Warning: Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.

Educational Requirements: Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate. Includes appropriate and relevant community service opportunities.

Disciplinary Probation: Exclusion from participation in privileged activities for a specified period of time (privileged activities may include, but are not limited to, elected or appointed offices, student research, athletics, University-related student employment, and study abroad). Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other University policy violations may result in further disciplinary action.

Restitution: Repayment to the University or to an affected party for damages resulting from a violation of this Code. To enforce this sanction, the University reserves the right

to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

Housing Restrictions: Exclusion from University housing or change in housing arrangements.

Suspension: Exclusion from University premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the student's conduct file. Conditions for readmission may be specified in the suspension notice.

Expulsion: Permanent termination of student status and exclusion from University premises, privileges, and activities. This action will be permanently recorded on the student's academic transcript.

Revocation of Admission and/or Degree: Admission to, or a degree awarded by, the University may be revoked for fraud, misrepresentation in obtaining the degree, or violation of University policies, the Student Code of Conduct or for other serious violations committed by a student during the enrollment process, or prior to graduation.

Withholding Degree: The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Code, including the completion of all sanctions imposed.

Other sanctions may be imposed instead of, or in addition to, those specified here. More than one of the sanctions listed above may be imposed for any single violation.

VIII. Appeals (Employees)

Both the Complainant and the Respondent may appeal the outcome or the sanction. Complainant and the Respondent will have ten (10) business days to file a notice of appeal and will have fifteen (15) business days to submit the appropriate documentation. The appeal documentation shall consist of a plain, concise and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal. Each party will be notified if the other party files an appeal. The other party will be given an opportunity to review the appeal and supporting documentation and may submit a written response to the appeal within five (5) business days.

At the discretion of the Equal Opportunity and Title IX Coordinator, an appeal may be assigned to either an Appellate External Adjudicator or a senior University administrator. The Appellate External Adjudicator and the senior University administrator shall each be referred to as the "Appellate Authority" in the following procedures.

The Complainant and Respondent may appeal only the parts of final outcome directly relating to themselves. The Appellate Authority shall only hear appeals on the following grounds:

1. ***Severity of the sanction imposed:*** To determine whether the sanction(s) imposed was appropriate for the violation of EIC-1 of which the employee was found in violation.
2. ***Improper procedure:*** To determine whether the original adjudication process was conducted fairly in light of the allegations and information presented, and in conformity with prescribed procedures.
3. ***New information that has become available that was not reasonably available during the investigation.*** To consider new information sufficient to alter a decision or other relevant facts not brought out in the original adjudication process, because such information and/or facts were not known or reasonably available at the time of the original hearing to the person appealing.
4. ***Inconsistency*** between the EIC investigative determination and the recommendation of the Faculty-Student Bias Conduct Review Board.

Appeals are not intended to be full re-investigations of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the original investigation, and pertinent documentation regarding the grounds for appeal. This is not an opportunity for the Appellate Authority to substitute their judgment for that of the original decision-maker, but rather to potentially make changes to the finding when at least one of the four specified grounds for appeal is established or there is a clear error or an abuse of discretion.

The Appellate Authority shall, in consultation with the Equal Opportunity and Title IX Coordinator and the Office of General Counsel, make a determination on the case, within ten (10) business days of receipt of the full appeal documentation. The decision of the Appellate Authority is final.