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Whistleblower, Policy 1.40

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Applies to: Faculty, staff, students, student employees, and volunteers

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The university has a compelling obligation to address allegations and suspected instances of discrimination and harassment. The Office of Human Resources is ultimately responsible for investigating all complaints of discrimination and harassment. In some instances appropriately trained units may be delegated authority to investigate in partnership with the Office of Human Resources.

I. Initiating a Complaint of Discrimination or Harassment

Complaints can be filed by contacting the Office of Human Resources, or by submitting a completed [Discrimination/Harassment Complaint Form](#) to the Office of Human Resources. Complaints of discrimination/harassment should be filed within 180 calendar days of notice of the event(s) that gave rise to the complaint. Filing a complaint with The Ohio State University Office of Human Resources does not preclude the individual from filing a complaint with an external agency *nor does it extend time limits with those agencies*.

Individuals who wish to make a complaint of discrimination should:

- A. Talk with the responsible party or seek to resolve the situation in consultation with the supervisor and/or College/Unit Human Resource Professional.
- B. If the issue is not resolved, contact the Office of Human Resources. Submit a completed [Discrimination/Harassment Complaint Form](#), available from the Office of Human Resources.
- C. Provide witnesses and/or documentation from individuals that have first-hand knowledge of the situation.
- D. Respect the confidentiality and reputation of all parties.
- E. Keep the investigator informed of any new concerns or actions taken against the complaint during the investigation.

II. Responsibilities for Resolving Complaints

A. Duty to Act

1. Any Human Resource Professional (HRP); supervisor, including faculty supervisors; chair/director; or faculty member who becomes aware of information that would lead a reasonable person to believe that Discrimination/Harassment has occurred will notify the Office of Human Resources, by ensuring that a [Discrimination/Harassment Complaint Form](#) or other appropriate documentation is filed within five working days of becoming aware of the information. The Complaint Form/documentation will

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- initiate collaboration between the Office of Human Resources and the unit HRP to determine how to proceed with addressing any potential discrimination/harassment.
 2. Corrective action may be imposed on any individual who has a duty to act in any situation of potential discrimination or harassment and who fails to respond in a manner consistent with the provisions of the applicable policies, procedures, and these guidelines.
- B. Supervisors, Managers, Department Chairs/Directors Responsibilities
1. Contact the College/Unit Human Resource Professional and with their collaboration, assess the situation to determine if it can be internally resolved or if it should be referred to the Office of Human Resources.
 2. Address all concerns promptly and thoroughly.
 3. Respect the confidentiality and reputation of all parties.
 4. Refer individuals to available university resources if counseling assistance is needed.
 5. If the situation cannot be successfully resolved, the complaint must be referred within five days to the Office of Human Resources for investigation.
- C. College/Unit Human Resource Professional (HRP)
1. Assess the situation and attempt timely resolution of workplace issues by notifying and collaborating with the Office of Human Resources.
 2. Address all concerns promptly and thoroughly.
 3. Respect the confidentiality and reputation of all parties.
 4. Refer individuals to available university resources if counseling assistance is needed.
 5. If the situation cannot be successfully resolved, the complaint must be referred within five days to the Office of Human Resources. The Office of Human Resources investigates all complaints unless otherwise provided in our policy.
- D. Office of Human Resources
1. Conduct all investigations following these guidelines.
 2. Maintain data established by policy regarding complaints of discrimination and harassment.
 3. Collaborate with departments to reduce/eliminate instances of discrimination and harassment.
 4. Communicate investigation findings to the appropriate unit or higher-level administrator, complainant and accused.

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5. Issue appropriate actions steps and/or corrective measures.
6. Monitor action steps and/or corrective measures to ensure behavioral change and compliance.

III. Investigating Complaints of Discrimination or Harassment

Any Human Resource Professional (HRP), supervisor, chair/director, or faculty member who becomes aware of an allegation will notify the Office of Human Resources about the allegation by ensuring that a [Discrimination/Harassment Complaint Form](#) or other appropriate documentation is filed within five working days of becoming aware of the allegation. The complaint form/documentation will initiate collaboration between OHR and the unit HRP to determine how to proceed with resolving the complaint.

IV. Investigator Duties

- A. Investigations will be a collaborative effort between the unit and OHR whenever possible. Individuals will be informed of the investigation and its progress on a timely basis.
- B. The investigator will discuss the following with the complainant:
 1. The complainant may:
 - a. File a complaint with the Office of Human Resources, or
 - b. File a grievance under the nondiscrimination clause of the appropriate collective bargaining agreement.
- C. The investigator will discuss the following with the complainant and accused:
 1. The behaviors and any related issues that gave rise to the complaint.
 2. The policy under which the complaint is brought and these investigation guidelines. Copies of both will be provided.
 3. The university has a compelling obligation to address complaints and suspected instances of discrimination and harassment. The university is not precluded from taking any action it deems appropriate, including informing the accused of the allegations and pursuing an investigation even in cases when the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary.
 4. The manner and frequency with which they will be updated about the status of the investigation.
 5. The importance of confidentiality during the investigation. To the extent possible, the university will make every reasonable effort to conduct all proceedings in a manner that will protect the

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- confidentiality of all parties. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.
6. Ohio Public Records Law. Upon conclusion of the investigation, records may be made available to the extent mandated by law.
 7. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination/harassment or for participating in an investigation. The university will not tolerate retaliation of any form against any faculty, staff, student, or volunteer who files a complaint, serves as a witness, assists a complainant, or participates in an investigation of discrimination or harassment. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the discrimination/harassment complaint. Allegations of retaliation should be directed to the Office of Human Resources.
- D. The investigator will ensure that the [Discrimination/Harassment Complaint Form](#) is completed. A written complaint form is not necessary if sufficient information has been provided to the investigator to allow an investigation to proceed.
 - E. The investigator, in collaboration with the unit representative/HRP and the complainant, will determine if special provisions are necessary to ensure that no discrimination/harassment occurs against the complainant while the investigation is pending.

V. Investigation Process

- A. Purpose of the investigation. The purpose of the investigation is to evaluate the allegations of discrimination/harassment, formulate a response that addresses the facts as they are determined, and follow up to ensure that the necessary action steps are completed.
- B. Method of investigation. Depending on the facts of the case, an investigation may range along a continuum from a one-on-one conversation with the accused with an agreement as to further interactions; to an inquiry with several witness interviews. During the investigation, the consultant may interview the parties, witnesses who have first-hand knowledge of the events and gather relevant documents. After analyzing all the information, the consultant will prepare a case report with findings and detailed action steps to be implemented by the unit and the parties. Prior to the release of the case report, the employment law and compliance manager will review the report and discuss with the investigator any procedural issues, the specific findings and necessary actions steps. After this review, the case report will be delivered to the parties. The decision issued by OHR is final. In every case, a record must be made of the allegations, investigation, and action taken.
- C. Presence of support persons

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1. An individual of the complainant's and accused's choice may accompany them at the initial interview and subsequently, as appropriate. The role of the support person would be to be present at the time of the investigation interview. The support person is not provided documentation on the investigation or allowed to interject during the investigation interview. Time period for resolution of an allegation.
2. Investigations should be concluded within a reasonable timeframe from the date the complaint was filed. If this is not reasonably possible due to extenuating circumstances, the investigator should inform the complainant and accused of the status of the review and an estimated conclusion date.

D. Possible outcomes. An investigation may result in one of the following findings:

1. A determination that there is sufficient evidence to indicate a violation of university policy.
2. A determination that there is insufficient evidence to indicate a violation of university policy.
3. A determination that inappropriate behavior has occurred.
4. A determination that there is sufficient evidence to indicate that an allegation is false.

If discrimination, harassment, false allegation, inappropriate behavior, or other policy violation has occurred, the university will take necessary action steps to correct the behavior. A false charge occurs when someone intentionally reports information or incidents that they know to be untrue.

The department must take prompt remedial action consistent with the severity of the offense, if any, and all applicable university rules and regulations. The necessary action steps for the department to take will be provided by the Office of Human Resources to the appropriate administrator who is responsible for implementation.

- E. Concluding the investigation. At the conclusion of the investigation, the investigator will inform the appropriate unit or higher-level administrator, complainant, and accused of the outcome.
- F. Written report of outcomes. The investigator will prepare a written summary of the outcome of the investigation and inform the complainant and accused of the investigation outcome.

VI. Corrective Action Implementation

When discrimination or harassment is found, steps will be taken to ensure that the behavior is stopped promptly. Appropriate corrective action may range from counseling, written reprimands, suspensions, or other action up to and including dismissal, in accordance with established university rules and procedures. The Office of Human Resources will monitor corrective action to ensure compliance.

- A. In cases involving faculty members, corrective measures may be imposed in accordance with Faculty Rules and Procedures 3335-5-04.

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- B. For unclassified and classified civil service employees, refer to Human Resources Policy 8.15, Corrective Action.
- C. For bargaining unit employees, refer to the appropriate collective bargaining agreement.
- D. In cases involving students acting in their employment capacity, measures may be imposed in accordance with Human Resources Policy 10.10, Student Employment. In all other cases, measures may be imposed in accordance with the Code of Student Conduct.

VII. Confidentiality

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

VIII. Retaliation

The university will not tolerate retaliation in any form against any faculty, staff, student, or volunteer who files an allegation, serves as a witness, assists an alleged, or participates in an investigation of discrimination or harassment. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination or harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the allegation. Allegations of retaliation should be directed to the Office of Human Resources.

IX. Academic Freedom

When the alleged discrimination/harassment takes place in an instructional setting and the accused believes the allegation of discrimination/harassment infringes upon academic freedom, a designee from the [Committee on Academic Freedom and Responsibility \(CAFR\)](#) will be consulted. This designee will have access to all pertinent information regarding the investigation to assure due regard for academic freedom. The designee will address concerns about the investigation process with the investigator as necessary.

X. Record Keeping

The Office of Human Resources will maintain a written record of all witness interviews, evidence gathered, the outcome of the investigation, and any other appropriate documents. Investigation records will not be maintained in personnel files or student files unless they are part of a formal corrective action. Investigation

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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.

A full set of investigation paperwork will be housed at the Office of Human Resources, including complaint form and/or notes, investigation notes, any relevant documentation or evidence, case report if appropriate, and letters of notification of findings and necessary action steps. If corrective action is issued, a letter documenting the action should be included in the discrimination/harassment investigation file. When corrective action is taken, the employing unit will house a file including the case report, letters of findings, and corrective action documents.

RESOURCES

Consultation:

Office of Human Resources, 614-292-2800

Office of Academic Affairs, 614-292-5881

Counseling:

Counseling and Consultation Service, Office of Student Affairs, 614-292-5766, ccs.ohio-state.edu

Ohio State Employee Assistance Program, The OSU Health Plan, 614-292-4472, osuhealthplan.com/OhioStateEAP

More information:

Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10,

hr.osu.edu/policy/policy110.pdf

Code of Student Conduct, studentlife.osu.edu/pdfs/csc_12-31-07.pdf

Discrimination/Harassment Complaint form hr.osu.edu/forms/shdisccomplaint.pdf

Employment Disputes and Allegations of Discrimination, Policy 8.20, hr.osu.edu/policy/policy820.pdf

Equal Employment for Individuals with Disabilities, Policy 4.45, hr.osu.edu/policy/policy445.pdf

Faculty Rules and Procedures, trustees.osu.edu/rules5/ru5-04.php

Family and Medical Leave, Policy 6.05, hr.osu.edu/policy/policy605.pdf

HIV/AIDS, Policy 7.25, hr.osu.edu/policy/policy725.pdf

Records Retention Policy, <http://library.osu.edu/assets/Uploads/RecordsManagement/general-schedule.pdf#page=17>

Rules for Classified Civil Service hr.osu.edu/policy/ccs

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Self-Disclosure of Criminal Convictions and Background Check, Policy 4.15, hr.osu.edu/policy/policy415.pdf

Sexual Harassment, Policy 1.15, hr.osu.edu/policy/policy115.pdf

Whistleblower, Policy 1.40, hr.osu.edu/policy/policy140.pdf

Workplace and Family and Relationship Violence, Policy 7.05, hr.osu.edu/policy/policy705.pdf

Academic freedom:

Council on Academic Freedom and Responsibility (CAFR), senate.osu.edu/?s=CAFR

HISTORY

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