

Investigation Guidelines

Used in conjunction with Policies 1.10, 1.40, 1.50, 4.15, 4.17, 4.45, 6.05, 7.05

Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10
Background Check, Policy 4.15
Equal Employment for Individuals with Disabilities, Policy 4.45
Family and Medical Leave, Policy 6.05
Activities and Programs with Minor Participants, Policy 1.50
Self-Disclosure of Criminal Convictions, Policy 4.17
Whistleblower, Policy 1.40
Workplace Violence, Policy 7.05

And other policies as applicable

Sexual misconduct, which includes sexual harassment and relationship violence, is reported, investigated, and resolved following the procedures located in Sexual Misconduct, Sexual Harassment and Relationship Violence, Policy 1.15. These guidelines are not applicable to that policy.

The university has a compelling obligation to address allegations and suspected instances of discrimination/harassment when it obtains information that would lead a reasonable person to believe that a policy has been violated or that the university should know about. The Office of Human Resources Employee and Labor Relations and/or Wexner Medical Center Employee Relations (“OHR/WMC”) is ultimately responsible for investigating all complaints of discrimination/harassment, except when the accused is a student and not a student employee. Complainants involving students who are not employees are investigated by the Office of Student Conduct. The university may take appropriate action, 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.

I. Reporting Discrimination or Harassment

- A. Reports can be made by individuals who are directly involved in, who observe, or who reasonably believe that discrimination/harassment may have occurred. This includes allegations by third parties against members of the “university community,” which includes, but is not limited to, faculty, staff, student employees, volunteers, vendors, and any individual deemed to have an affiliation with the university in a non-compensatory capacity as designated in the applicable Human Resources Information System. Some members of the university community have a duty to report such information; see Employee Duty to Report section below.
- B. Reports can be made by:
 - 1. Submitting a completed [Discrimination/Harassment Complaint Form](#) to the Office of Human Resources.
 - 2. Contacting the [Office of Human Resources](#) (OHR) by calling 292-2800, Wexner Medical Center Employee Relations (WMC) by calling 293-4988.
 - 3. Filing an anonymous report via telephone at 866-294-9350 or [online](#).
 - 4. Contacting the Title IX coordinator or deputy coordinator in cases of sex- and gender-based discrimination or harassment.
- C. Reports of discrimination/harassment should be filed within 180 calendar days of notice of the event(s) that gave rise to the complaint.
- D. Filing a complaint with the university does not preclude the individual from filing a complaint with external law enforcement or other agency *nor does it extend time limits with those agencies*.

II. Employee Duty to Report

- A. Any Human Resource Professional (HRP); supervisor, including faculty supervisors and volunteer supervisors; chair/director; or faculty member who becomes aware of information that would lead a reasonable person to believe that discrimination/harassment has occurred must notify the OHR/WMC within five work days of becoming aware of the information.
- B. Corrective action may be taken against any individual who has a duty to report and who fails to respond in a manner consistent with the provisions of the applicable laws, regulations, policies, procedures, and these guidelines.



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III. Responsibilities for Resolving Complaints

A. OHR/WMC responsibilities:

1. Conduct all investigations when the accused is an employee, including student employees. In cases when the accused is also student employee, collaborate with the Office of Student Conduct.
2. Maintain comprehensive documentation of the receipt of a report/allegation of discrimination/harassment, its investigation, and its resolution.
3. Provide the documentation to the Title IX coordinator or deputy coordinator in cases of sex and gender-based discrimination or harassment.
4. Provide investigation findings to the complainant and accused.
5. Issue appropriate action steps and/or corrective actions.
6. Monitor action steps and/or corrective action to ensure behavioral change and compliance.
7. Address all concerns promptly and thoroughly.
8. Respect the confidentiality and reputation of all parties.
9. Refer individuals to available university and/or community resources if counseling assistance is needed.

B. College/Unit Human Resource Professional (HRP) Responsibilities:

1. Refer all reports or allegations of discrimination/harassment to OHR/WMC or Title IX coordinator or deputy coordinator in cases of sex and gender discrimination or harassment, within five work days.
2. Assist supervisors, chairs/directors, and faculty members when an allegation of discrimination or harassment has been disclosed, and if so, refer it to OHR/WMC or Title IX coordinator or deputy coordinator in cases of sex or gender-based discrimination or harassment.
3. Address all concerns promptly and thoroughly.
4. Respect the confidentiality and reputation of all parties.
5. Refer individuals to available university and/or community resources if counseling assistance is needed.

C. Supervisor (including faculty supervisors and volunteer supervisors), Chair/Director, and Faculty Member Responsibilities:

1. Refer all reports of discrimination/harassment to OHR/WMC or Title IX coordinator or deputy coordinator, in cases of sex or gender-based discrimination or harassment, within five work days.
2. Contact the college/unit HRP to collaborate when an allegation of discrimination or harassment is disclosed and if so, refer it to OHR/WMC or Title IX coordinator or deputy coordinator in cases of sex or gender-based discrimination or harassment within five work days.
3. Address all concerns promptly and thoroughly.
4. Respect the confidentiality and reputation of all parties.
5. Advise individuals of available university and/or community resources for counseling or other assistance.

IV. Investigator Duties

- A. Investigations will be a collaborative effort between the unit and OHR/WMC 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:

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1. The complainant may:
 - a. File a complaint with OHR/WMC
 - b. File a complaint with the Title IX coordinator or deputy coordinator in cases of sex or gender-based discrimination or harassment.
 - c. 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 allegations and suspected instances of discrimination/harassment when it obtains information that would lead a reasonable person to believe that a policy has been violated or that the university should know about. The university may take 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. See Confidentiality section below.
 6. Ohio Public Records Law. Upon conclusion of the investigation, records may be made available to the extent mandated by law.
 7. The university will not tolerate retaliation in any form. See Retaliation section below.
- D. The investigator will ensure that a written complaint or [Discrimination/Harassment Complaint Form](#) is completed if necessary. 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 interim measures are necessary to prevent discrimination/harassment from occurring 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 OHR/WMC consultant may interview the parties, witnesses who have first-hand knowledge of the events, and gather relevant documents. After analyzing all the information, the OHR/WMC 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 employee relations director or designee will review the report and discuss with the investigator any procedural issues, the specific findings, and necessary actions steps. In instances of sex- or gender-based discrimination, the Title IX coordinator or deputy coordinator will be



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consulted. After this review, the case report will be delivered to the parties. The decision issued by OHR/WMC is final. In every case, a record must be made of the allegations, investigation, and action taken.

- C. Presence of support persons. The complainant and the accused may each have a support person present during any applicable investigation meeting or disciplinary proceeding as an outcome of the investigation. Although the support person may be present, they may not interject during the meeting, nor will they be provided with documentation during the meeting.
- D. Time period for resolution of an allegation. Investigations should be concluded within a reasonable timeframe from the date a report is made.
- E. Preponderance of the evidence (i.e., more likely than not) is the standard used when investigating and resolving any sex or gender- based reports/allegations of discrimination or harassment.
- F. Possible outcomes.
 - 1. An investigation may result in one of the following findings:
 - a. A determination that there is sufficient evidence to indicate a violation of university policy.
 - b. A determination that there is insufficient evidence to indicate a violation of university policy.
 - c. A determination that there is no evidence to indicate a violation of university policy.
 - d. A determination that inappropriate behavior has occurred.
 - e. A determination that there is sufficient evidence to indicate that an allegation is false.
 - 2. When the outcome is a finding of sufficient evidence, a finding that the allegations were false, a finding of inappropriate behavior, or a finding that another policy violation has occurred, the university will take necessary action steps to correct the behavior. A false allegation finding will be made when an individual has intentionally reported information or incidents that they knew, when they made the allegation, were untrue.
 - 3. 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 OHR/WMC to the appropriate administrator who is responsible for implementation.
- G. 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.
- H. Written report of findings. The investigator will prepare a written summary of the findings of the investigation.

VI. Corrective Action Implementation

- A. When discrimination/harassment is found, steps will be taken to ensure that the behavior is stopped promptly. Appropriate corrective action may range from the charged party: being referred to counseling, receiving a written reprimand, receiving a suspension, or receiving other action up to and including dismissal, in accordance with established university rules, policies, and procedures. OHR/WMC will monitor corrective action to ensure compliance.
 - 1. In cases involving faculty members, corrective measures may be imposed in accordance with [Rules of the University Faculty 3335-5-04](#).
 - 2. For unclassified and classified civil service employees, refer to [Corrective Action and Involuntary Termination](#), Policy 8.15.
 - 3. For bargaining unit employees, refer to the appropriate collective bargaining agreement.

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4. In cases involving students acting in their employment capacity, measures may be imposed in accordance with [Student Employment](#), Policy 10.10. Measures may also be imposed in accordance with the [Code of Student Conduct](#) and other university policies.

VII. Confidentiality

- A. The university recognizes the importance of confidentiality. To the extent possible, information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except when necessary to conduct an appropriate investigation, to provide assistance and resources to complainants, to perform other appropriate university functions, or when required to do so by law. When requests for confidentiality arise, they will be evaluated by OHR/WMC the Title IX coordinator or deputy coordinator will be consulted in cases of sex or gender-based discrimination or harassment. All individuals involved in the process should observe the same standard of discretion and respect for everyone involved in the process.

VIII. Retaliation

- A. The university will not tolerate retaliation in any form against any individual who makes an allegation, files a report, serves as a witness, assists a complainant, or participates in an investigation of discrimination/harassment. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination/harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or student status, independent of the merits of the underlying allegation. Allegations of retaliation should be directed to OHR/WMC, or in cases of sex or gender discrimination, to the Title IX coordinator or deputy coordinator.

IX. Academic Freedom

- A. When the alleged discrimination/harassment takes place in an instructional setting and the accused believes the allegation of discrimination/harassment infringes upon academic freedom, the individual may raise those concerns with the [Council on Academic Freedom and Responsibility](#) (CAFR).

X. Record Keeping

- A. The OHR/WMC 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 or sanction. Investigation records will be maintained in accordance with the [Records Retention Schedule](#). When a complaint is filed outside the university, information gathered in the course of the internal investigation may be disclosed to the investigating agency.
- B. A full set of investigation paperwork will be housed at the OHR/WMC 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.
- C. In instances of sex- and gender-based discrimination, the Title IX coordinator will be provided written notice of

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the complaint, report, investigation, and resolution.

XI. Maintaining these Guidelines

- A. Sections of these guidelines that duplicate any policy to which they apply can only be updated consistent with the respective policy.

RESOURCES

Consultation:

Office of Human Resources, Employee and Labor Relations 614-292-2800
Wexner Medical Center Employee Relations, 614-293-4988
Office of Academic Affairs, 614-292-5881
Title IX Coordinator and Deputy Coordinators, titleix.osu.edu

Counseling:

Counseling and Consultation Service, Office of Student Life, 614-292-5766, ccs.ohio-state.edu
Ohio State Employee Assistance Program, The OSU Health Plan, 614-292-4472, osuhealthplan.com/OhioStateEAP

More information:

Activities and Programs with Minor Participants, Policy 1.50, hr.osu.edu/public/documents/policy/policy150.pdf
Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10, hr.osu.edu/public/documents/policy/policy110.pdf
Background Check, Policy 4.15, hr.osu.edu/public/documents/policy/policy415.pdf
Code of Student Conduct, studentaffairs.osu.edu/csc/
Corrective Action and Involuntary Termination, Policy 8.15, hr.osu.edu/public/documents/policy/policy815.pdf
Discrimination/Harassment Complaint Form hr.osu.edu/wp-content/uploads/form-discrimination-harassment-complaint.pdf
Employment Disputes, Policy 8.20, hr.osu.edu/public/documents/policy/policy820.pdf
Equal Employment for Individuals with Disabilities, Policy 4.45, hr.osu.edu/public/documents/policy/policy445.pdf
Family and Medical Leave, Policy 6.05, hr.osu.edu/public/documents/policy/policy605.pdf
Records Retention Schedule, library.osu.edu/documents/records-management/general-schedule.pdf
Rules for Classified Civil Service <https://hr.osu.edu/policies-forms/rules-for-ccs/>
Rules of the University Faculty, trustees.osu.edu/university/facultyrules
Self-Disclosure of Criminal Convictions, Policy 4.17, hr.osu.edu/public/documents/policy/policy417.pdf
Sexual Misconduct, Sexual Harassment and Relationship Violence, Policy 1.15, hr.osu.edu/public/documents/policy/policy115.pdf
Student Employment, Policy 10.10, hr.osu.edu/public/documents/policy/policy1010.pdf
Whistleblower, Policy 1.40, hr.osu.edu/public/documents/policy/policy140.pdf
Workplace Violence, Policy 7.05, hr.osu.edu/public/documents/policy/policy705.pdf



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Academic freedom:

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

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