



## **Office of Equal Opportunity and Access**

### **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

#### **A. Overview**

The Investigation and Resolution Process for Students (“Student Process”) applies to students who are accused of, or are alleged victims of, violations of University Policy 05-001 Sexual Misconduct and Discrimination (“Policy”). Oregon State University (“university”), for the purposes of this Student Process, considers a student to be: an admitted person demonstrating acceptance of admission through participation in orientation programs or early start programs; a person who is enrolled or dually enrolled; a person enrolled online; a person between academic terms; a graduate awaiting a degree; a person on an approved educational leave; a person currently serving a suspension, including administrative suspension; a person who is not currently enrolled but can register without re-applying; a person who withdraws while a disciplinary matter, including an investigation, is pending; and, a person who is eligible to receive any of the rights and privileges afforded a person who is enrolled. The Student Process does not apply to responding parties who are employees, though students who report faculty or staff for potentially violating the Policy will receive similar support resources and process as set forth in the Student Process.

The Office of Equal Opportunity and Access (“EOA”) will respond to all verbal, written, and electronic reports of alleged violations of the Policy. Reports and information should be brought forward as soon as possible after the alleged violation occurs. While there is no stated timeframe for making a complaint, prompt reporting will better enable EOA to respond to the complaint, determine the relevant issues, and provide an appropriate response and/or action. All incidents should be reported even if a significant amount of time has passed. Delay in making a report or complaint may impede EOA’s ability to conduct an investigation or take appropriate responsive actions.

The timeline for resolution begins when a responsible employee is notified of an allegation. EOA will attempt to bring all allegations to a resolution within a sixty (60) calendar day time-period, which can be extended as necessary for good cause as determined by the Title IX Coordinator. In the event of a concurrent criminal investigation, EOA may reasonably delay the timeline in order to cooperate with the requests of law enforcement. However, EOA may resume its investigation after

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

notification that law enforcement has completed the evidence gathering stage of the criminal investigation. EOA will provide all parties involved regular status updates as possible and appropriate.

The possible response may be limited if information contained in the report is insufficient to verify violation(s) of the Policy or the identity of the parties involved.

### **B. Accessibility**

It is the policy of the university to comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (“ADA”), as amended by the ADA Amendments Act of 2008, and other applicable federal and state regulations that prohibit discrimination on the basis of a disability. Individuals in need of accommodations for the process described in this document should inform EOA as soon as possible.

EOA is committed to making the investigation and resolution process as accessible as possible for all students. Students off campus or otherwise unable to participate in person may request arrangements to participate in other ways (including by providing written statements, through telephonic or online means, etc.). Students with disabilities have the right to reasonable accommodation. EOA will offer reasonable accommodations to reporting parties who are unable to submit a written complaint because of a qualified disability. Students who require a disability accommodation, language support, or who may have other factors that could impact their ability to participate should contact EOA as early as possible in the process to make a request for assistance, which will then be reviewed by EOA. EOA’s ability to meet requests may be limited without enough advance notice.

Non-native English speakers may request translation services.

### **C. EOA Jurisdiction and Title IX Assessment**

EOA is the university office charged with investigating all alleged violations of Title IX and University Policy 05-001 Sexual Misconduct and Discrimination. EOA is responsible for investigating all such claims brought by students, employees, volunteers, or anyone prevented from participating in a university program, or against students, employees, university contractors, volunteers, and other campus

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

community members. Additionally, EOA may investigate alleged violations of other university policies and rules associated with the Title IX or Policy investigation.

Upon receiving a report of an alleged violation of the Policy, EOA will promptly evaluate whether the allegation is within the scope of EOA's investigative authority.

EOA generally does not investigate reports made anonymously, but reserves the right to do so based on the determination of the Title IX Coordinator.

### **D. Evidentiary Standard**

The applicable evidentiary standard for all violations of the Policy is a preponderance of the evidence. This standard is met when the evidence shows that it is "more likely than not" that the alleged misconduct occurred.

### **E. Reporting Amnesty**

Oregon State University encourages all community members to report behavior associated with sexual harassment and sexual assault. To support such reporting, the university will not pursue student conduct proceedings against a reporting party, a responding party, or witness for personal use of alcohol, marijuana or other drugs at or near the time of the incident provided their use did not place the health or safety of any other person at risk. Oregon State University may however, initiate an educational discussion with any student regarding their personal use of alcohol, marijuana or other drugs.

### **F. Assignment to an Equity Associate**

If EOA determines that a report alleges a possible violation of the Policy, it will be assigned to one or more EOA equity associate(s) for appropriate action. All equity associates receive training on Title IX laws, regulations, and investigatory techniques and practices, and serve as investigators for all allegations of a Policy violation.

Upon assignment, the equity associate will send an email to the reporting party providing information on available campus and community resources and support, including law enforcement contact information. This email will include an invitation to meet with the equity associate for an initial meeting to discuss the report, resources

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

and process options, including the voluntary resolution process and the investigation process.

The equity associate(s) will determine whether to pursue an investigation after making a preliminary assessment of the allegations. An investigation may not be possible in instances where the reported information is insufficient or the identity of one or more parties is unknown. These determinations will be documented in writing by the equity associate and maintained in accordance with EOA's records retention schedule.

In cases where the reporting party does not wish to pursue an investigation, the equity associate will inform the reporting party that the ability to take corrective action may be limited. EOA may independently determine that an investigation should proceed even if a complaint has not been filed, and separate from the intent or wishes of the reporting party. (*See Section J. Requests for EOA Not to Investigate an Allegation*)

If an alleged violation is reported by a witness, bystander, or other person, EOA will treat the alleged victim of the violation as the reporting party for purposes of this document. EOA will attempt to contact the reporting party three times. If the reporting party does not respond to EOA contact after the third attempt, EOA will conclude the reporting party does not wish to pursue an investigation or resolution process, and generally, close the case. In cases with certain fact patterns, the Title IX coordinator may decide that EOA will conduct an investigation without the participation of the reporting party. (*See Section J. Requests for EOA Not to Investigate an Allegation*)

### **G. Initial Meeting with Reporting Party**

The equity associate will hold an initial meeting with the reporting party when the reporting party is available and willing to participate. The purpose of this meeting is to:

1. Go over options available to the reporting party, including informing the reporting party of their right to report to law enforcement and file a criminal complaint, and that EOA will coordinate with law enforcement, appropriately, to minimize delay;
2. Notify the reporting party of their right to seek medical treatment to address physical health issues and of the importance of preservation of evidence;
3. Advise the reporting party of available on-campus and off-campus advocacy, support, and healthcare resources, including confidential resources;
4. Provide the reporting party with a copy of the Policy and this process document;

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

5. Provide the reporting party with a written copy of EOA's Resources and Rights document that contains information on victim's rights to report, civil and legal options, campus-based services and disciplinary processes, privacy policy information and state and community resources and services;
6. Explain the investigation process and timelines, answer any related questions, and schedule other meeting(s), if necessary;
7. Provide a document explaining the reporting party's rights and options under this process, including the right to have an advisor throughout the process (See *Section Q.1. Advisors*);
8. Give the reporting party a full opportunity to provide information regarding the allegations, including providing the equity associate with relevant documentary evidence and the identity of potential witnesses;
9. Provide the reporting party the opportunity to complete and sign a complaint form;
10. Discuss reasonable interim assistance, as appropriate;
11. Discuss the reporting party's expressed preference for manner of resolution and any barriers to proceeding, including explanation of the voluntary resolution process versus an investigation process;
12. Explain OSU's policy prohibiting retaliation.

### **H. Initial Meeting with Responding Party**

Prior to or during the initial meeting with the responding party, the equity associate(s) will:

1. Advise the responding party of available on-campus and off-campus advocacy, support, and healthcare resources, including confidential resources;
2. Provide the responding party with a copy of the Policy and this process document;
3. Explain the investigation process and timelines, answer any related questions, and schedule other meetings, if necessary;
4. Provide a document explaining the responding party's rights and options under this process, including the right to have an advisor throughout the process (See *Section Q.1. Advisors*);
5. Provide the responding party with a summary of the complaint against the responding party, if available. If the summary complaint is not available at the

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

time of the initial meeting with the responding party, the equity associate will provide it as soon as it is available;

6. Provide the responding party an opportunity to respond to the allegations, including providing the equity associate with relevant documentary evidence and the identity of potential witnesses;
7. Discuss reasonable interim assistance, as appropriate.
8. Explain OSU's policy prohibiting retaliation.
9. Inform the responding party that they will have 10 business days to provide a written response to the allegations against them.

### **I. Privacy**

All reports made to EOA are treated as private information, and will generally be shared only in the most limited manner possible. Information regarding the report may be shared on a “need to know” basis with other university employees, for instance, to facilitate requests when a party would like the university to provide interim assistance.

Student medical and counseling records are considered privileged and confidential documents. Students may, but will not be required to, disclose those types of documents as part of this process.

The university is unable to guarantee anonymity for any party.

### **J. Requests for EOA Not to Investigate an Allegation**

If a report is determined to be a possible violation of the Policy, but the reporting party is not participating in this process, makes a request for EOA not to investigate, or requests that no disciplinary action be taken against the responding party, the Title IX Coordinator will strive to honor the individual's wishes whenever possible. When weighing requests, the Title IX Coordinator will consider a range of factors, including the following:

1. Increased risk that the alleged responding party will commit additional acts of sexual or other violence, indicated by the following criteria:
  - a. previous or multiple sexual misconduct complaints involving the responding party;
  - b. a history of violence by the responding party; or,

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

- c. threatened further sexual violence or other violence against the reporting party or others by the responding party;
2. Allegations that the sexual misconduct was committed by multiple perpetrators;
3. Increased risk of future acts of sexual violence under similar circumstances;
4. Use of a weapon in committing the act of sexual violence;
5. A report of sexual misconduct perpetrated against a minor;
6. The availability of other means to obtain relevant evidence of the sexual misconduct without the participation of the reporting party (e.g., security cameras or personnel, physical evidence, etc.).

The presence of one or more of these factors could lead the Title IX Coordinator to initiate an investigation and, if appropriate, for the university to pursue disciplinary action. If none of these factors are present, EOA will likely respect the reporting party's request that no investigation or discipline be pursued.

If the Title IX Coordinator determines that a reporting party's request cannot be respected, due to one or more of the factors above, EOA will notify the reporting party prior to starting an investigation.

### **K. Interim Assistance**

The university shall offer interim assistance, related to access to programs and activities, to the parties involved in this process who are found to be credibly negatively impacted by any conduct prohibited by the Policy, and experienced while engaged in university programs and activities. Interim assistance will be considered in order to reduce and/or eliminate any negative impact, stop any wrong-doing, and prevent further harm to the individual or the campus community.

Interim assistance will also be offered to the responding party to alleviate any negative impact of participating in the process, when appropriate, until the process is concluded or resolution is reached.

Upon request, the university shall provide the parties with reasonable interim assistance throughout the reporting, investigation, disciplinary process, and appeal, and thereafter, regardless of whether an investigation is conducted or a report is made to law enforcement. Interim assistance will be coordinated by EOA with other university offices.

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

Interim assistance may include, but is not limited to the following actions:

1. Provide information on available campus and community based advocacy support;
2. Provide information on available psychological counseling and health services;
3. Provide changes to academic situations such as adjustments to academic deadlines, course schedules, withdrawal from a class without penalty, and completing a course on-line, if appropriate;
4. Provide changes to living situations, if appropriate;
5. Provide changes to campus work arrangements, if appropriate;
6. Provide temporary transportation/parking assistance, if appropriate;
7. Issuing a no-contact order to the parties or others involved in the matter, if appropriate; and,
8. Other appropriate assistance to prevent harm until the process is concluded or resolution is reached.

The university will keep interim assistance private, provided that privacy does not impair the university's ability to arrange for the interim assistance.

### **L. Administrative Suspension**

To promote the safety and well-being of members of the campus community; secure university property; and/or take action with a student/student organization who poses an ongoing threat to the normal operations of the university, the Title IX Coordinator may request that the university initiate an administrative suspension against a student or student organization. To obtain an administrative suspension, the Title IX Coordinator must make a request to the Director, Student Conduct and Community Standards ("SCCS"). The process for administrative suspension is outlined in the Code of Student Conduct ("Code"). (*See Code of Student Conduct Sec. 9: Administrative Suspension*)

### **M. Filing a Complaint**

The reporting party may submit a complaint form, submit a written signed statement, or make an oral statement to the equity associate. Any oral reports will be documented by the equity associate. The documented report will be provided to the

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

reporting party, who must review and sign the documented report to affirm its accuracy.

When possible, the reporting party should include and/or the equity associate should gather the following information:

1. The reporting party's full name, student number, address (including email address) and telephone/cell phone number(s);
2. The name of the responding party and job title, position or student status, if known;
3. A clear, concise statement of the facts that constitute the allegations, including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;
4. The specific harm alleged;
5. The specific remedy sought;
6. A statement verifying that the information provided is true and accurate to the best of the reporting party's knowledge; and,
7. The reporting party's signature.

### **N. Review of Complaint**

If the equity associate determines the reporting party has submitted a complaint that is not within the scope of the Policy, the equity associate will provide the reporting party with written notice of this determination in a timely manner. EOA will maintain a record of the complaint and the reasons the complaint was deemed not within the scope of the Policy. If it is determined that a complaint is not within the scope of the Policy, the reporting party may amend their statement at any time in the future and their amended complaint will receive full new consideration.

EOA may also determine if the complaint should be processed through another campus office or university procedure available to the reporting party. If appropriate, EOA will direct the reporting party to that procedure or office as soon as possible.

### **O. Voluntary Resolution Process**

Reporting parties who allege they have experienced sexual misconduct or discrimination under the Policy may request the voluntary resolution process prior to, or instead of, requesting an investigation. The purpose of the voluntary

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

resolution process is to explore whether the reporting party's concern(s) can be resolved by EOA informally. Once the voluntary resolution process is concluded with a mutually agreeable outcome, the matter is considered settled, and the university will not conduct any further investigation of the incidents presented in the voluntary resolution process.

This process cannot be used to resolve allegations of non-consensual sexual intercourse or when a student has brought allegations of sexual harassment against an employee in a position of authority over the student.

The university does not require the use of the voluntary resolution process. It is not appropriate for a reporting party to be required to "work out the problem" directly or mediate with the responding party. Where a facilitated conversation is requested, no meeting between the reporting party and the responding party should occur without involvement by appropriate university staff.

1. To begin the voluntary resolution process, the reporting party should inform the equity associate that they want to engage in the voluntary resolution process. This can take place any time prior to the beginning of an investigation; before, during, or after the initial meeting. The equity associate will inform the reporting party of the range of possible outcomes, including interim assistance or disciplinary actions that might be taken against the responding party, and information about the procedures leading to those outcomes.
2. Participation in the voluntary resolution process is voluntary for all parties. It may include an inquiry into the facts, but does not include an investigation.
3. EOA shall attempt to resolve the reporting party's concern(s) quickly and effectively. The assigned equity associate will meet with the reporting party, the responding party, and any other persons the equity associate may determine to be necessary.
4. Resolution options under the voluntary resolution process include but are not limited to:
  - a. discussions with the parties;
  - b. a resolution facilitated by the equity associate(s);
  - c. implementing a mutual no contact order and/or separating the parties;
  - d. referring one or both of the parties to counseling and/or support programs;
  - e. an agreement between EOA and the responding party regarding disciplinary action, with advice and approval from SCCS; and,

## Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)

f. conducting targeted preventive educational and training programs.

- 5. Final Voluntary Resolution.** If a mutually agreed resolution is reached, a written record of the resolution shall be documented by the equity associate and maintained in accordance with applicable EOA recordkeeping policies. The university shall consider the voluntary resolution to be the final outcome and the matter is then considered closed. No appeals of a voluntary resolution outcome are possible.

Where the responding party is a student, the equity associate will inform the Director, SCCS of the outcome of the voluntary resolution process, including any interim assistance afforded to the reporting party.

If a mutually agreed resolution cannot be reached, in the sole opinion of the equity associate, the equity associate may terminate the voluntary resolution process. (*See O.6. Withdrawal from the Voluntary Resolution Process*)

- 6. Withdrawal from the Voluntary Resolution Process.** Either the reporting or responding party may at any time elect to withdraw from the voluntary resolution process. Additionally, if the equity associate determines that a mutually agreeable resolution is not possible, or if the equity associate learns of information that requires an investigation, the equity associate may terminate the voluntary resolution process.

In that event, the equity associate will promptly notify the parties, in writing, that the voluntary resolution process has terminated, and inform the parties of the right to request an investigation. EOA may honor that request based on EOA's review of the complaint and the information gathered in the voluntary resolution process.

If a party wishes EOA to conduct an investigation, the party may request EOA open one through the usual intake process. (*See Section C. EOA Jurisdiction and Title IX Assessment*)

EOA may determine the matter is appropriate for an investigation based on the complaint and the information gathered in the voluntary resolution process, even if neither party requests an investigation. If EOA determines an investigation is warranted, EOA will so notify the parties in writing through a Notice of Investigation (*See Section P. Investigation Process*).

## P. Investigation Process

Once EOA has determined that a report alleges a potential violation of the Policy, the reporting party may request that EOA initiate an investigation. EOA may independently initiate an investigation if the Title IX Coordinator determines an investigation is warranted and without a report or participation by the alleged victim of misconduct under the Policy. The investigation process is not available if a final voluntary resolution has already been concluded.

- 1. Notice of Investigation.** EOA will issue a notice of investigation to the parties via campus e-mail or U.S. mail.
  - a. The notice will provide a summary of the allegations, including: date, time, and location of the alleged violation, if known; the specific sections of university policy that are alleged to have been violated; and the rights of and on-campus resources available to each party.
  - b. Upon receiving the notice of investigation, the responding party must contact EOA within three (3) business days to set an appointment with the equity associate or to notify the equity associate that they do not wish to meet. Responding parties may attend a meeting with the equity associate to obtain information on the process only. However, the investigation will continue even if the responding party does not choose to participate. Responding parties can choose to participate at any point in the investigation, but may not be permitted to offer evidence to EOA once the case is presented to the Director, SCCS.
- 2. Investigation/Evidence Gathering.** After the notice of investigation is sent, the equity associate will conduct a thorough and impartial investigation, gathering relevant and necessary information about the alleged misconduct. During the investigation, the reporting party and responding party shall have equal opportunity to provide the equity associate with the names and contact information of fact witnesses, documentation, and any other relevant evidence related to the alleged misconduct.
  - a. A written record of the statements of each person interviewed will be provided to that person. All statements made to the equity associate during the investigation, and prior to the final investigative meeting, will be offered for review for accuracy by the individual who provides the information. Individuals may suggest changes and additions, or submit alternative language that they believe more accurately reflects what was said during the investigation interview. Individuals reviewing their statements must provide a response to the equity associate(s) within five (5) business days of receiving the written record.

## Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)

- b. Relevancy of evidence will be determined by the equity associate conducting the interviews. Witnesses who only intend to provide evidence of a party's character will not be interviewed.
- c. Failure to offer evidence known during the process does not constitute grounds for appeal on the basis of new evidence.
- d. If evidence of additional possible Policy or Code violations has been found during the investigation, the party accused of that violation will be notified of those allegations in writing. An amnesty provision applies in some circumstances. (*See B. Amnesty*)
- e. If either party leaves or graduates from the university during the investigation, EOA will continue the investigation. EOA will continue to offer a party who has left or graduated the opportunity to participate in the process.

**3. Investigation Report and Final Investigative Meeting.** At the completion of the investigation, the equity associate will develop a written report that documents the investigation.

- a. The equity associate will offer the parties an individual final meeting to provide an overview of the draft investigation report and offer the parties an opportunity to provide additional information.
- b. The draft investigation report and supporting documents will be made available for in-person review in the EOA offices. No copies or photographs of the investigation report will be permitted.
- c. The investigation report will contain all relevant information obtained in the course of the investigation, including statements by the parties and witnesses, evidence submitted by the parties and witnesses, and any other evidence. The investigation report will also contain the findings and credibility determinations reached by the equity associate. Relevancy will be solely determined by the equity associate conducting the investigation.
- d. The parties will be offered the opportunity to provide supplemental evidence at their final meetings or within two (2) business days. If, in the sole determination of the equity associate, any supplemental evidence provided by a party is relevant to the investigation, the equity associate may reopen the investigation phase of the process.
- e. The parties will be offered the opportunity to submit written questions for the other party involved in the case. At the discretion of the equity associate, the questions submitted may be asked as provided, asked as modified by the

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

equity associate, or not asked at all, based on the equity associate's determination of whether or not the questions are relevant or may provide clarity to the investigation. A written record of the questions actually asked by the equity associate and the answers to those questions will be provided to each party.

- f. If no relevant supplemental evidence is provided, the equity associate will finalize the investigation report.
- g. The equity associate will forward the final investigation report and all relevant evidence to the Director, SCCS who will make a determination and finalize sanctions, if any. At this point, the Director, SCCS, or designee, becomes the primary university contact for the student parties. The Director, SCCS will contact the parties to provide contact information and to describe the Administrative Conference process.

### **4. Administrative Conference**

The administrative conference is an administrative process intended to provide an opportunity for each party to respond to the information in the investigation report. The university uses the administrative conference to assess whether the Policy or Code has been violated and, as appropriate, to recommend formal disciplinary action and other outcomes.

- a. The administrative conference process will be conducted by the Director, SCCS or designee. The Director, SCCS will review all information contained within the investigation report developed by the equity associate. The Director, SCCS will use the factual findings of the equity associate who conducted the investigation. The Director, SCCS may request that the equity associate provide additional information or investigation, at the sole discretion of the Director, SCCS.
- b. All parties will be given the opportunity to submit written statements that address the charges and investigation report. The written statement must be submitted within five (5) business days of the initial communication by the Director, SCCS. The statements of each party will be provided to the other. Each party will then be provided five (5) business days to provide a written response to the other party's statement. The parties may also submit rebuttal evidence and witnesses for the Director, SCCS's review.
- c. Either party may choose not to submit a final statement. If a party chooses not to submit a final statement, the Director, SCCS will make a determination based upon the available information.

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

- d. At their election, either party may meet with the Director, SCCS to discuss the information provided in the written statement. Relevancy will be solely determined by the Director, SCCS, conducting the administrative conference.
- e. The Director, SCCS may designate another individual within Student Conduct and Community Standards to fulfill all roles of the Director, SCCS under this process.

### **5. Decision and Outcome Letter**

The Director, SCCS will prepare an outcome letter based on the evidence, factual findings, statements and other documents submitted during the administrative conference, determine whether the Policy and/or the Code was violated, and determine appropriate sanctions, if any. This document will serve as the determination of the university on the matter.

The Director, SCCS has final decision-making authority with regard to sanctions, subject to appeal. Any sanctions will be determined in accordance with the Code or other applicable university policy. Where the responding party is found in violation, SCCS will monitor compliance with the sanctions imposed. Where no violation is found, the investigation will be closed unless appealed.

Both the reporting and responding parties will receive simultaneous written notification of the outcome of the case, to the extent permitted or required by law. This written notification of the decision shall be delivered to the parties without undue delay between the notifications and will advise the parties of appeal rights and procedures.

Upon the issuance of the decision by the Director, SCCS any party may appeal the decision.

### **6. Appeal**

Parties to a complaint filed under the investigation process may appeal the determination and any outcome imposed by the Director, SCCS. If an appeal is filed by either party, the Director, SCCS will notify the opposite party of the appeal and will provide information on how to submit information for review. All appeals follow the appeals process contained within the Code (*See Code of Student Conduct, Section 8: Appeals*), and shall be submitted according to the Code. The appeal will be heard in an impartial manner by the Vice Provost

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

for Student Affairs, an impartial decision-maker trained in issues related to sexual misconduct and Title IX.

The Vice Provost for Student Affairs has the authority to accept, modify, or reject the sanctions in part or entirely. The Vice Provost for Student Affairs may also remand the case to EOA for further investigation. The decision of the Vice Provost for Student Affairs serves as the final decision of the university on the matter; no additional appeals are available.

### **Q. Additional Provisions**

#### **1. Advisors**

The parties and witnesses may each elect to be accompanied by one advisor to any meeting or interview conducted under this process. An advisor can be a friend, family member, attorney, etc. However, a witness to the alleged misconduct is not eligible to be an advisor for either party.

The role of the advisor is to support and/or give advice regarding the process. An advisor may observe, take notes, request breaks to consult with the party, and ask for clarification about the process.

An advisor **may not** directly participate in the process, answer questions for the party or witness, interject comments that disrupt the meeting, or interrupt the process to such an extent that the educational purpose of the meeting is impaired, as determined in the sole discretion of the equity associate or Director, SCCS. If an advisor violates these restrictions, they will be given one warning, then, if the disruptive conduct continues, they will be requested and expected to leave the meeting. The party or witness can then elect and be accompanied by a new advisor.

#### **2. Participation**

Students/student organizations are strongly encouraged to directly participate in all stages of the process. Because the process is educational in nature, and because information related to mitigating and aggravating circumstances is considered, students/student organizations are best positioned to provide that information and enhance their own learning through direct participation. If students/student organizations choose to not participate in the process, the case may proceed without them and a decision may be made in the absence of any input from the student/student organization.

#### **3. Safeguarding Privacy**

All parties involved in this process are required to keep all detailed information relevant to the proceeding private during the process. Reproduction of documents and disclosure of information contained in documents reviewed in

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

the process are prohibited, and any breach of this restriction is subject to disciplinary action by SCCS.

The expectation of privacy during the investigation and resolution process should not be understood to limit the legal rights of the parties during or after resolution. The university may not, by federal law, prohibit either party from disclosing the final outcome (after any appeal is concluded). All other conditions for disclosure of administrative conference records and outcomes are governed by the Family Educational Rights and Privacy Act (FERPA) and any other applicable laws.

All records of completed voluntary resolutions and investigations are considered education records of the involved students and retained by EOA in compliance with its records retention policy. These records are only available for review by the parties as provided by and during this process. Redacted records may be available to a party after the matter is concluded, as determined by EOA on a case by case basis in compliance with FERPA and other applicable law.

### **4. Witness Cooperation in Investigations**

Witnesses are expected to cooperate with and participate in the investigation. Any witness who declines to participate in, or cooperate with, an investigation may, in the sole discretion of the equity associate, be permitted to offer evidence or testimony later. Witnesses may provide written statements in lieu of an in-person meeting, but must make themselves available to answer questions by phone, Skype, or similar technology if they cannot be interviewed in person.

Witnesses who refuse to participate or obstruct an investigation conducted by EOA may be referred to SCCS, if a student, and/or the Office of Human Resources if an employee.

### **5. Training for University Staff**

University staff tasked with implementing this process will participate in continuing education on related topics as required by applicable law.

### **6. Conflicts of Interest**

The university is committed to ensuring that its resolution process is free from actual or perceived bias or conflicts of interest that would materially impact the outcome of this process. Any concerns regarding conflict of interest in an EOA process should be submitted promptly to the Executive Director of EOA.

## **Sexual Misconduct and Discrimination Investigation and Resolution Process (Students)**

### **7. Recordkeeping**

EOA will retain records of all reports under the Policy, investigations, and resolutions in accordance with the EOA records retention schedule.

Effective: 9/15/2017