

Interim University Policy

Applies to: Faculty, staff, students, student employees, graduate associates, suppliers/contractors, program participants, volunteers, visitors, and employment applicants

Responsible Office

Office of Institutional Equity

POLICY

Issued: 10/01/1973
Interim Revised: 08/14/2020

The Ohio State University is committed to building and maintaining a community to reflect human diversity and to improve opportunities for all. The university is committed to equal opportunity, **affirmative action**, and eliminating **discrimination** and **harassment**. This commitment is both a moral imperative consistent with an intellectual community that celebrates individual differences and diversity, as well as a matter of law.

Ohio State does not discriminate on the basis of age, ancestry, color, disability, ethnicity, gender, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, pregnancy, race, religion, sex, sexual orientation, or protected veteran status, or any other bases under the law, in its **education program or activity**, which includes employment.

In addition, the university complies with Executive Order 2019-05D, which prohibits any Ohio State employee from discriminating against any other employee or **applicant** on the basis of race, color, religion, gender, gender identity or expression, national origin (ancestry), military status (past, present or future), disability, age (40 years or older), status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, genetic information, or sexual orientation, as those terms are defined in Ohio law, federal law, and previous Executive Orders, in making any of the following employment-related decisions:

- a. Hiring
- b. Layoff
- c. Termination
- d. Transfer
- e. Promotion
- f. Demotion
- g. Rate of Compensation
- h. Eligibility for In-Service Training Programs

This policy will be interpreted in compliance with applicable law and exceptions provided by applicable law. Nothing in this policy is intended to detract from rights guaranteed to bargaining unit members under their current collective bargaining agreements.

Purpose of the Policy

To maintain a university environment free from discrimination and harassment and promote equal employment opportunity and prohibit discrimination and harassment based on the aforementioned protected classes and in accordance with the law or applicable executive order, including and not limited to: Americans with Disabilities Act, Age Discrimination Act of 1975, Age Discrimination in Employment Act, Genetic Information Nondiscrimination Act, Ohio Revised Code Section 4112, Pregnancy Discrimination Act, Rehabilitation Act of 1973, Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Vietnam Era Veterans' Readjustment Assistance Act of 1974, Ohio Executive Order 2019-05D, Executive Order 11246, and any other laws or applicable executive orders related to equal opportunity.



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

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Definitions

Term	Definition
Affirmative action	The university's proactive employment efforts to recruit, hire, and advance qualified minorities, women, persons with disabilities, and covered veterans, as required of federal contractors.
Affirmative action plan	Includes a number of quantitative analyses designed to evaluate the percentage of minorities, women, persons with disabilities, and covered veterans employed throughout the university, and based on these percentages, to assess specific areas where the university can improve its affirmative action outreach and recruiting efforts.
Applicant	An individual who has applied for a specific position for employment with the university, meets the basic qualifications for the position, is considered by the university for the position, and does not voluntarily remove themselves from consideration for the position.
Discrimination	Discrimination (disparate treatment and disparate impact) occurs when an adverse action is taken under university authority against a university community member in an educational program or activity and the action is based upon one's protected class status. Disparate treatment occurs when one suffers less favorable treatment than others because of their protected class status. Disparate impact occurs when a university policy or practice, although neutral on its face, adversely impacts persons in a protected class.
Education program or activity	Locations, events, or circumstances over which the university exercises substantial control over both the respondent and the context in which the discrimination or harassment occurs, including employment and any building owned or controlled by a student organization that is officially recognized by the university.
Equal employment opportunity	All persons shall have equal opportunity for university employment free of discrimination regardless of age, ancestry, color, disability, ethnicity, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, race, religion, sex, sexual orientation, protected veteran status, or any other bases under the law.
OIE formal complaint	Under this policy, a document filed by a complainant or signed by an Office of Institutional Equity director or designee alleging discrimination or harassment against a respondent and requesting that the university investigate the allegation. OIE directors include: Americans with Disabilities Act coordinator, director of Affirmative Action/EEO, Title IX coordinator, and director of youth protection.
Harassment	<p>In the employment context, harassment is unwelcome verbal or physical conduct based on a protected class that unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.</p> <p>In the education context, harassment is unwelcome, verbal or physical conduct based on a protected class that interferes with, denies, or limits an individual's ability to participate in or benefit from the university's educational programs and activities.</p> <p>Harassment can take two forms: power differentials (<i>quid pro quo</i>) or hostile environment:</p> <p>A. <i>Quid pro quo</i> harassment exists when:</p> <ol style="list-style-type: none"> 1. There are unwelcome requests or demands based on a protected class; and 2. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status; or 3. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions adversely affecting such individual. <p>B. <i>Hostile environment in the employment context</i> includes any situation in which there is harassing conduct that is sufficiently severe or pervasive such that it unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or abusive work environment. <i>Hostile environment in the education context</i> includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive that it interferes with or denies educational benefits or opportunities, from both a subjective (the complainant's) and an objective (reasonable person's) viewpoint.</p> <ol style="list-style-type: none"> 1. The determination of whether an environment is "hostile" is based on a totality of circumstances. These circumstances may include:



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Term	Definition
	<ul style="list-style-type: none"> a. The degree to which the conduct interfered with the complainant’s educational or work performance; b. The type, frequency, and duration of the conduct; c. The identity of and relationship between the respondent and the complainant(s); d. The number of individuals involved; e. The age and sex of the respondent and the complainant(s); f. The location of the incident(s) and the context in which it occurred; g. The nature and severity of the conduct; h. Whether the conduct was physically threatening; i. Whether the conduct was humiliating; j. The effect of the conduct on the complainant’s mental or emotional state; k. Whether the conduct arose in the context of other discriminatory conduct; l. Whether the speech or conduct deserves the protections of academic freedom or the first amendment. <p>2. A single or isolated incident of harassment may be severe enough to create a hostile environment. Minor slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of harassment. In order to violate this policy, the conduct must create an environment that would be intimidating, hostile, or offensive to a reasonable person.</p> <p>* See Sexual Misconduct 1.15 policy, for the definition of sexual harassment.</p>
Party	A broad term that encompasses complainant(s) and respondent(s) in a matter.
Complainant	An individual who is alleged to be the victim of conduct prohibited by this policy. An individual may be a complainant regardless of whether that individual makes a report or participates in the review of that report by the university.
Respondent	An individual who has been reported to be the perpetrator of conduct prohibited by this policy.
Protected Class	Protected class is defined by federal law/executive order, federal agencies, or Ohio State policy. The protected classes include: age, ancestry, color, disability, ethnicity, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, race, religion, sex, gender, sexual orientation, pregnancy, protected veteran status, or any other bases under the law.
Retaliation	<p>Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by this policy, or because the individual has made a report or complaint, testified, assisted, or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.</p> <p>Intimidation, threats, coercion, or discrimination, including charges against an individual for policy violations that do not involve discrimination or harassment, but arise out of the same facts or circumstances as a report or complaint of discrimination, or a report or formal complaint of harassment, for the purpose of interfering with any right or privilege secured by this policy, constitutes retaliation.</p> <p>Examples of retaliation include: discrimination or harassment as defined by this policy, job termination, adjustment in pay or responsibilities, or any other action that has a materially adverse effect on the working environment of an employee, that hinders or prevents an employee from effectively carrying out their university duties, or that has a materially adverse impact on the academic or living environment of a student. Any person or group within the scope of this policy who engages in retaliation is subject to a separate complaint of retaliation under this policy. A good faith pursuit by a party of civil, criminal or other legal action, internal or external to the university, does not constitute retaliation.</p>
Student	An individual to whom an offer of admission has been extended, paid an acceptance fee, registered for classes, or otherwise entered into another agreement with the university to take instruction. Student status lasts until an individual graduates, is permanently dismissed, or is not in attendance for two complete, consecutive terms, and includes those with a continuing educational relationship with the university. “Student” also includes registered student organizations. A student organization remains a



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Term	Definition
	<p>“student” for purposes of this policy for one calendar year following the expiration of the organization’s most recent registration.</p> <p>The university reserves the right to administer this policy and proceed with any process provided by this policy even if the student withdraws from the university, is no longer enrolled in classes, or subsequently fails to meet the definition of a student while a disciplinary matter is pending.</p>
Supportive measures	Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter discrimination or harassment.
University Community	Faculty, staff, students, student employees, graduate associates, suppliers/contractors, program participants, volunteers, visitors, and employment applicants.

Policy Details

I. Affirmative Action

- A. The university is committed to take affirmative action consistent with federal and state law to increase the employment and retention of individuals in underrepresented demographics.
- B. The university will make good faith efforts for employment outreach (e.g., ensuring job descriptions and postings are nondiscriminatory, sharing opportunities with community groups, and utilizing consistent criteria) consistent with federal and state law to decrease underrepresentation.
- C. The university will gather and analyze necessary data pursuant to the university’s **affirmative action plan**. In accordance with applicable law, the university invites:
 - 1. Job applicants to voluntarily self-identify their disability status, ethnicity, race, sex, and veteran status at the pre- and post-offer stages of the hiring process; and
 - 2. Employees to voluntarily self-identify their disability status at five year intervals thereafter.
- D. Employees may voluntarily self-identify their disability at any time.
- E. Submission of the information in C and D above is voluntary and refusal to provide it will not subject the job applicant or employee to any adverse treatment.
- F. Pursuant to the university’s affirmative action plan, the university will review progress on an annual basis.
- G. OIE will partner with the Office of Human Resources and respective employing units to effectuate affirmative action requirements.

II. Equal Employment Opportunity

- A. All employment practices including, but not limited to, recruitment, selection, promotion, compensation, and all other management decisions will provide equal opportunities for all individuals.
- B. All job postings and advertisements must include the following tagline: The Ohio State University is an equal opportunity employer.
- C. All qualified applicants will receive consideration for employment without regard to age, ancestry, color, disability, ethnicity, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, race, religion, sex, gender, sexual orientation, pregnancy, protected veteran status, or any other bases under the law.
- D. Applicants are encouraged to complete and submit the [Equal Employment Identification form](#).
- E. OIE will partner with the Office of Human Resources and respective employing units to effectuate equal employment opportunity requirements.



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III. Discrimination and Harassment

A. Scope

1. This policy applies to alleged discrimination or harassment in any medium. Discrimination and harassment may manifest in many evolving forms, including but not limited to: physical, verbal, visual, and online/electronic/social media.

B. Jurisdiction

1. This policy applies to alleged discrimination or harassment that occurs at an event, program, or endeavor operated, conducted, or organized by the university.
2. This policy may also apply to alleged discrimination or harassment that occurs off-campus, including virtual spaces, when it could reasonably create a hostile environment in the education program or activity.
 - a. When an employee engages in conduct in violation of this policy and the conduct is committed off-duty and not on university property or in the context of an educational program or activity, the university may discipline the employee, up to and including discharge, whenever the conduct impairs the credibility of the employee to perform the employee's job or is otherwise connected to employment at the university; has the purpose or reasonably foreseeable effect of substantially interfering with the work or educational performance of **students**, faculty, or staff; or the conduct demonstrates that the individual poses a reasonable threat to campus safety and security. Employee conduct that is off-duty but on university property or that is directed toward university students, employees, affiliates, or property is always connected to employment at the university. Likewise, employee conduct that is on duty but off university property is always connected to employment at the university.
 - b. For students, this policy also applies in circumstances described in Section 3335-23-02 (A) and (B) of the [Code of Student Conduct](#).
3. Under some circumstances an OIE director or designee may file a formal complaint, such as when there is a risk to the campus community, and the complainant will be informed as such.
4. Nothing in this policy detracts from any legal right of a parent or guardian to act on behalf of a complainant, respondent, or other individual, subject to Family Educational Rights and Privacy Act (FERPA), including but not limited to filing a formal complaint.
5. The university has a compelling obligation to address allegations and suspected instances of discrimination or harassment when it knows or should have known information that would lead a reasonable person to believe that this policy has been violated.
6. The university's response may be limited if the respondent is a visitor or other third-party or is not subject to the university's jurisdiction.

- #### C. This policy is not intended to and will not be used to infringe on academic freedom or to censor or punish members of the **university community** who engage in activity protected by the First Amendment.

D. Policy maintenance

1. This policy is managed by the Office of Institutional Equity (OIE).
2. This policy and the associated procedures will be revised by a working group comprised of OIE, the Office of Academic Affairs, the Office of Human Resources, the Office of Legal Affairs, and the Office of Student Life.

IV. Reporting Allegations of Discrimination and Harassment

- #### A. Any university community member or individual who is directly involved in, observes, or reasonably believes that discrimination or harassment or retaliation may have occurred can submit a report to OIE:

1. Online – reporting form at equity.osu.edu
2. Call – 614-247-5838
3. Email – equity@osu.edu
4. Mail – Office of Institutional Equity, St. John Arena, 410 Woody Hayes Dr., Columbus, Ohio 43210



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- B. Any human resource professional who becomes aware of information that would lead a reasonable person to believe that discrimination or harassment may have occurred involving anyone covered under this policy must report all known information as soon as practicable but at most within five workdays of becoming aware of such information.
- C. Making a report to the university does not preclude the individual from filing a report of a crime with law enforcement nor does it extend time limits that may apply in criminal processes.

Agency	Contact Information
Ohio State University Police Department	614-292-2121 or 9-1-1 for emergencies dps.osu.edu
For regional campuses and off-campus crimes, local law enforcement agency	9-1-1 for emergencies

- D. Individuals, including members of the university community, may submit reports anonymously via the following resources. Note that anonymous reports do not fulfill a human resource professional’s duty to report.
 1. The university’s [Anonymous Reporting Line](#), accessible online at ohio-state.ethicspoint.com or via telephone at 866-294-9350.
 2. Online reporting form at equity.osu.edu.

V. Confidentiality and Privacy

- A. The university recognizes the importance of confidentiality and privacy. Information received in connection with the reporting, investigation, and resolution of allegations will be treated as private and will only involve individuals whom the university determines are necessary to conduct an appropriate investigation, to provide assistance and resources to parties, to perform other appropriate university functions, or in accordance with applicable law.
- B. The university will maintain as confidential any **supportive measures** provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the supportive measures.
- C. The university will keep confidential the identity of any individual who has made a report or complaint of discrimination or harassment, including any individual who has made a report or filed a formal complaint of discrimination or harassment, any complainant, any individual who has been reported to be the perpetrator of discrimination or harassment, any respondent, and any witness, except in accordance with applicable law.
- D. If an incident is disclosed or reported to the university and the individual requests that no investigation be conducted or disciplinary action taken, the OIE director or designee will explain that the university prohibits **retaliation** and explain the steps the university will take to prevent and respond to retaliation if the individual participates in a resolution process. The associate vice president of OIE or designee will evaluate the request to determine whether the university can honor the request while still providing a safe and nondiscriminatory environment.
- E. A decision to proceed despite an individual’s request will be made on a case-by-case basis after an individualized review, and the complainant will be notified if such a decision is made.
- F. All individuals involved in the process should observe the same standard of discretion and respect for everyone involved in the process.

VI. Supportive Measures

- A. Upon receipt of a report of discrimination or harassment, the associate vice president of OIE or designee will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the



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process for filing a formal complaint. The university treats complainants and respondents equitably by offering supportive measures to both parties, if and when a respondent is identified.

- B. The OIE director or designee will conduct an individualized assessment and will review requests from either **party** to determine supportive measures that are appropriate and reasonably available. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter discrimination or harassment.
- C. Supportive measures may include, but are not limited to:
 - 1. Mutual no contact directives;
 - 2. Referral to campus and community resources for advocacy, counseling, disability services, financial aid services, health services, immigration services, safety and transportation services;
 - 3. Extensions of deadlines or other course-related adjustments;
 - 4. Modification of work or class schedules;
 - 5. Change in work or housing locations;
 - 6. Change in reporting relationship;
 - 7. Consideration of leave requests;
 - 8. Assistance with academic petitions;
 - 9. Removal of a program participant, supplier/contractor, volunteer, or visitor; and
 - 10. Additional options as provided in the [Investigative Resolutions Standards](#).
- D. The university maintains as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the supportive measures. The OIE director or designee is responsible for coordinating the effective implementation of supportive measures. Parties will not be required to arrange such measures by themselves but may need to participate in communication with supervisors, faculty, and other university employees with a need to know.
- E. The university will follow the investigative resolution process before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in this policy against a respondent.

VII. Emergency Removal

- A. The university may remove a respondent from the university's education program or activity on an emergency basis pursuant to conduct prohibited by this policy. If after review of relevant information known at the time, the university determines that the respondent presents an immediate threat to the physical health or safety of any student or other individual arising from the allegations of discrimination or harassment justifies removal, the university may remove the respondent from the university's education program or activity or any part of the university's education program or activity.
- B. The university will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- C. Nothing in this policy precludes the university from imposing an interim suspension as provided by the [Code of Student Conduct](#), if applicable.
- D. Nothing in Policy Details VII.A or B above precludes the university from placing faculty or staff on paid or unpaid administrative leave or reassignment during an investigative resolution process as provided by applicable university rules or policies.
- E. Nothing in this policy precludes the university from taking other appropriate action under separate university processes, if applicable.



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VIII. Investigation and Resolution Options

A. Initial assessment

1. OIE reviews all reports of discrimination, harassment, retaliation, false allegations, and process abuse under this policy for an initial assessment of the reported information.
2. Upon completion of an initial assessment, the associate vice president of OIE or designee will determine the available options for resolution and will communicate options to the parties.
3. The available resolution options will be guided by the availability of information or evidence suggesting that a policy violation may have occurred, OIE's decision to investigate and provide appropriate remedies to eliminate, prevent, and address the effects of the prohibited conduct, and the availability or desire of the complainant to participate in an investigation or other resolution.

B. Informal resolution

1. Informal resolution may be utilized in some circumstances where the university deems it appropriate, a formal complaint is filed, and all parties consent in writing. At any time prior to reaching a determination regarding responsibility, the university may facilitate an informal resolution process that may not involve a full investigation and hearing or other adjudication. In these circumstances, the university will:
 - a. Provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - b. Inform all parties of the right to withdraw from the informal resolution process and resume the investigative resolution process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
 - c. Obtain the parties' voluntary, written consent to the informal resolution process.
2. Informal resolution is voluntary for all parties. The university does not require anyone to waive the right to an investigation and adjudication of a formal complaint consistent with this policy as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.
3. Informal resolutions include instances where the respondent accepts responsibility for any or all allegations in a formal complaint.

C. Other resolutions

1. The university reserves the right to have educational conversations and conduct informal coaching with anyone covered under this policy outside of the investigative process. Having an educational conversation does not preclude the university's ability to move forward in an investigative resolution process.
2. Such conversations are not considered an informal resolution and are not disciplinary actions.
3. Other resolutions are not limited to educational conversations and informal coaching.

D. Investigative resolution

1. OIE may resolve a formal complaint of discrimination or harassment through investigative resolution when the alleged misconduct, if true, would be prohibited under applicable university policy. In instances when informal resolution is inappropriate, when any party requests, or when the university determines an investigative resolution is required, the university will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.
2. Parties have an equitable right to:
 - a. Receive notice before participating in an interview with sufficient time to prepare for meaningful participation;
 - b. Participate in a process with reasonably prompt timeframes and extensions for good cause, as described in the [Investigative Resolution Standards](#);
 - c. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;



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- d. Discuss the allegations under investigation and gather and present relevant evidence;
 - e. Receive timely and equal access to any relevant information or documentation gathered during the investigation;
 - f. Have investigators who are adequately trained to resolve cases of alleged discrimination and harassment, are familiar with applicable policies and procedures, and who do not have a conflict of interest or bias for or against either party or bias for or against complainants and respondents generally; and
 - g. Have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The university may not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the university may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
3. An advisor may only provide counsel or support for a party and not actively participate in the process, except to conduct cross-examination during hearings, unless clarification is needed as determined by the university. The advisor may not engage in any conduct that would constitute harassment or retaliation against any person who has participated in an investigation and may be denied further participation if such conduct occurs.

IX. Remedies

- A. A finding of a policy violation will result in a remedy, which may include corrective action/sanctions. The university will take steps, whether individual or systemic, to stop the prohibited discrimination and/or harassment, prevent its recurrence, eliminate any hostile environment, and remedy the discriminatory effects on the complainant and others, as appropriate.
- B. Remedies must be designed to restore or preserve equal access to the university's education program or activity. Such remedies may include the same individualized services described as "supportive measures"; however, remedies may be disciplinary or punitive and need not avoid burdening the respondent.
- C. For **OIE formal complaints**, the associate vice president of OIE or designee is responsible for effective implementation of any remedies.

X. Corrective Action/Sanctions

- A. When the respondent is a student, potential sanctions include formal reprimand, disciplinary probation, suspension, dismissal, and other appropriate educational sanctions.
- B. In the event that a record of such sanction will become a part of the respondent's academic transcript, notice will be given.
- C. When the respondent is an employee, corrective actions may be taken pursuant to the [Corrective Action and Involuntary Termination policy](#), [Student Employment policy](#), applicable collective bargaining agreements, and/or [University Faculty Rule 3335-5-04](#). Disciplinary corrective actions include coaching, development plans, reduction in supervisory duties and leadership responsibilities, changes in salary, termination, and other appropriate corrective actions. In the event that a record of such corrective action will become a part of the respondent's personnel records, notice will be given.
- D. Student employees may be subject to corrective action and sanctions under both sections X.A and X.C above. For instance, a student employee who is dismissed from the university under section X.A may also be subject to termination or other corrective action under section X.C.
- E. Restoring or preserving equal access to the university's education program or activity is one consideration in determining appropriate sanctions and/or corrective actions.
- F. Other remedial measures



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1. When the university is unable to proceed with investigative resolution (for example, due to a lack of information in the report or a request by the complainant that an investigation not move forward), the university may take other remedial measures as appropriate to remedy the effects of the alleged discrimination or harassment and/or prevent its recurrence. Remedial measures may also be implemented when it is determined that inappropriate behavior occurred, but that the behavior did not rise to the level of a policy violation.
2. Remedial measures may include and are not limited to:
 - a. Providing training on discrimination or harassment;
 - b. Increasing security in a designated space;
 - c. Changing policy or procedure; and
 - d. Conducting climate checks.

XI. Retaliation

- A. Retaliation is prohibited by university policy and law. 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 or harassment.
- B. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or suspension or dismissal of a student, independent of the merits of the underlying allegation.
- C. Action can be taken under university policy as long as it is not done for the purpose of interfering with any rights and privileges provided by this policy.
- D. The university's expectation is that employees will participate in proceedings pursuant to the policy. This expectation is subject to the rights of complainants and respondents provided by this policy, and other rights provided by applicable law. Disciplinary action for refusal to participate does not constitute retaliation.

XII. False Allegations

- A. It is a violation of this policy for anyone to knowingly or with reckless disregard for the truth make false allegations of discrimination or harassment. Corrective action/sanctions may be imposed on individuals who knowingly or with reckless disregard for the truth make false allegations.
- B. The absence of a finding of a policy violation is not equivalent to a false allegation.

XIII. Process Abuse

- A. It is a violation of this policy for anyone to:
 1. Obstruct, prohibit, exert improper influence over, or interfere with any individual making a report, participating in a process, or carrying out a responsibility covered by this policy;
 2. Falsify or misrepresent information in or related to a process covered by this policy;
 3. Disrupt or interfere with the orderly conduct of any proceeding conducted under this policy; or
 4. Fail to comply with any directive, sanction, or corrective action issued pursuant to this policy.

XIV. Account Holds and Notations

- A. The university may, within its discretion, place a hold on a student's account or place a notation on a student's transcript while any investigation or proceeding conducted pursuant to this policy is pending.

XV. Directives

- A. OIE may issue directives when necessary to effectuate this policy.



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PROCEDURE

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I. Initial Assessment

- A. OIE reviews all reports of discrimination or harassment, retaliation, false allegations, and process abuse under this policy.
- B. OIE will provide rights and options to all complainants, including supportive measures, resolution options, and how to file a formal complaint, if desired.
- C. Upon completion of an initial assessment, an OIE director or designee may file an OIE formal complaint.

II. Review of Formal Complaint

A. Written notice

1. Upon receipt of a formal complaint, the university will provide written notice to the parties who are known. That written notice must:
 - a. Explain the university's investigative resolution process, including any informal resolution options;
 - b. Describe the allegations potentially constituting misconduct, including sufficient details known at the time;
 - c. Include sufficient details, including the identities of the parties involved in the incident, if known, the conduct allegedly constituting discrimination or harassment, and the date and location of the alleged incident, if known;
 - d. Include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
 - e. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
 - f. Inform the parties of provisions in this policy that prohibit knowingly making false statements or knowingly submitting false information during the grievance process; and
 - g. Be provided with sufficient time for the parties to prepare a response before any initial interview.
2. If, in the course of an investigation, the university decides to investigate allegations about the complainant or respondent that are not included in the notice, the university must provide notice of the additional allegations to the parties whose identities are known.

B. Dismissal of a formal complaint

1. If the alleged behavior in an OIE formal complaint, if true, does not meet the definition of a policy violation, an OIE director or designee may dismiss the formal complaint.
2. The university, at its discretion, may dismiss an OIE formal complaint or any allegations therein, if at any time during the investigation or hearing a complainant notifies OIE in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled at or employed by the university; or specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
3. If the formal complaint is dismissed, the investigative process will cease, but a remedy may still be appropriate.
4. Upon a dismissal, the matter may be referred to other resolution processes or other appropriate university processes or action.

C. Consolidation of formal complaints

1. The university, at its discretion, may consolidate formal complaints as to allegations against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances. This consolidation may include some or all of the investigation, resolution, or hearing.



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2. Where an investigative resolution process involves more than one complainant or more than one respondent, references in this policy to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

D. Conduct that may violate other university policies

1. When reported conduct may violate this policy and other university policies, the associate vice president of OIE or designee will consult with the appropriate university office(s) to determine how the matter should be investigated and adjudicated. This may, but is not required to, involve a joint investigation by more than one office.
2. The office or process used to investigate and adjudicate the matter is within the sole discretion of the university except as required by other applicable university rules or policies, but procedures set forth in this policy will be used to investigate and adjudicate alleged violations of this policy. The associate vice president of OIE or designee may refer possible violations of other university policies to an appropriate office at any time.

III. Investigation of a Formal Complaint

- A. A typical investigation will be completed within a reasonably prompt timeframe as described in the [Investigative Resolutions Standards](#).
- B. The investigation generally will include interviews with the parties, relevant witnesses, and a review of relevant documents and other available evidence.
- C. When investigating a formal complaint and throughout the investigative resolution process, the university will:
 1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the university and not on the parties.
 2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
 3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
 4. Provide parties the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit such choice or presence for either party.
 - a. The university may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
 5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings or proceedings with sufficient time for the party to prepare to participate.
 6. Provide parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
 - a. Prior to completion of the investigative report, the university must send to each party and the party’s advisor, if any, the evidence subject to inspection and review in an electronic format.
 - b. The parties must have at least ten business days to submit a written response, which the investigator will consider prior to completion of the investigative report.
 7. Provide an investigative report that fairly summarizes relevant evidence, in a format determined by the university, at least ten business days prior to a hearing or other time of determination regarding responsibility to each party and each party’s advisor, if any, for their review and written response.



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IV. Hearings

- A. Hearings are available for OIE formal complaints involving student respondents.
- B. The university will offer the parties a hearing. At the hearing, the resolutions officer or designee will permit cross-examination of a party and any witness, which includes all relevant questions and follow-up questions, including those challenging credibility.
 1. The university must make all evidence previously provided to the parties available for inspection and review at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
 2. The university prohibits advisors from participating in the hearing outside of conducting cross-examination.
- C. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the resolutions officer or designee(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- D. If a party or witness does not submit to cross-examination at the hearing, the resolutions officer or designee(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility.
- E. The resolutions officer or designee(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

V. Adjudicating OIE Formal Complaints Not Involving Student Respondents

- A. For OIE formal complaints not covered by Procedure IV above, following an investigation, a written determination will be issued as explained in Procedure VI below, excluding cases with respondents who are suppliers/contractors, volunteers, and visitors.
- B. In cases involving staff, any subsequent corrective action will be implemented by the employee's supervisor, Employee and Labor Relations, and/or other Human Resources professional as appropriate.
- C. In cases involving faculty, formal misconduct complaints regarding policy violations or other inappropriate behavior must be pursued through the University [Faculty Rule 3335-5-04](#) process, and non-disciplinary measures may be implemented by the faculty member's chair or dean if appropriate.
- D. If an employee respondent is found not to be responsible for violating the policy, Employee and Labor Relations may determine that the employee respondent engaged in conduct that was inappropriate or unprofessional and recommend appropriate action.
- E. OIE reserves the right to take immediate action when the alleged is a program participant, supplier/contractor, volunteer, or visitor. The university's disciplinary response may be limited if the respondent is a visitor or other third-party or is not subject to the university's jurisdiction.

VI. Determination Regarding Responsibility for All Formal Complaints

- A. The resolutions officer or designee(s) will issue a written determination regarding responsibility using the preponderance of the evidence standard in all cases.
- B. The written determination will include:
 1. Identification of the allegations potentially constituting discrimination or harassment;
 2. Findings of fact supporting the determination;
 3. Conclusions regarding the application of the policy to the facts;
 4. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility; and
 5. The university's procedures and bases for the parties to appeal.
- C. The university must provide the written determination to the parties simultaneously.



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- D. For OIE formal complaints, the sanctions and remedies may be issued at a subsequent time outside of the written determination, and the parties will be informed of the outcome and imposed sanction or corrective action in accordance with the Family Educational Rights and Privacy Act (FERPA) and other applicable law.
- E. The determination regarding responsibility becomes final either on the date that the university provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

VII. Appeals of Formal Complaint Resolution

- A. The university will offer both parties an appeal from a determination regarding responsibility, and from a dismissal of a formal complaint or any allegations therein, on the following bases:
 - 1. Procedural irregularity that affected the outcome of the matter;
 - 2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - 3. The OIE director as applicable, investigator(s), or resolutions officer or designee(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent specifically that affected the outcome of the matter; and/or
 - 4. The sanction is clearly inappropriate and is not commensurate with the seriousness of the offense.
- B. The party requesting the appeal must clearly articulate that their request falls within one of the bases for appeal. The director of education and engagement in OIE or designee so long as that person is not involved in the case as the assigned investigator or resolutions officer will perform an initial review of the appeal.
- C. Where the director of education and engagement in OIE or designee finds that at least one of the bases is clearly articulated, the appeal will proceed through the appeals process, which includes:
 - 1. An appeals officer who is adequately trained to review appeals in cases of alleged discrimination or harassment, is familiar with applicable policies and procedures, and who does not have a conflict of interest or bias for or against either party or bias for or against complainants and respondents generally;
 - 2. Notifying the other party in writing when an appeal is filed and implementing appeal procedures equally for both parties;
 - 3. Giving both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
 - 4. Issuing a written decision describing the result of the appeal and the rationale for the result; and
 - 5. Providing the written decision simultaneously to both parties.
- D. Where the director of education and engagement in OIE or designee does not find that one of the bases is clearly articulated, they will deny the appeal. In such instances, the findings will stand, and the rebuttal will be retained in the investigation file. A party must provide specific information to articulate that one or more of the grounds of appeal could be met. Vague or blanket assertions or assertions unsupported by specific facts or information will be denied.
- E. Regardless of whether a party is able to articulate a basis for appeal, or chooses not to submit an appeal, they may submit a rebuttal that will be maintained as part of the investigation file.

XVI. Additional Guidance

- A. OIE establishes standard protocols for responding to and resolving complaints of discrimination and/or harassment based on a protected class.

Responsibilities

Position or Office	Responsibilities
Employing unit	1. Partner with OIE to effectuate affirmative action and equal employment opportunity requirements. 2. Ensure confidentiality of individuals with HIV/AIDS infection, genetic information, or other issues governed by this policy.



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

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Position or Office	Responsibilities
	3. Refer to Investigative Resolution Standards for detailed investigation rights, options, and procedures.
Faculty, staff, student employees, graduate associates, volunteers, and applicants	<ol style="list-style-type: none"> 1. Submit reports of discrimination or harassment or retaliation to OIE or the university's Anonymous Reporting Line. 2. Respect the privacy and reputation of all parties. 3. Refer to Investigative Resolution Standards for detailed investigation rights, options, and procedures. 4. Assist in building and maintaining a diverse community to reflect human diversity and to improve opportunities for all.
Office of Human Resources, Employee and Labor Relations	<ol style="list-style-type: none"> 1. Partner with OIE to effectuate affirmative action and equal employment opportunity requirements. 2. Ensure that allegations of discrimination or harassment are promptly referred to OIE. 3. Partner with OIE during investigations involving employees. 4. Ensure confidentiality of individuals with HIV infection, genetic information, or other issues governed by this policy. 5. Refer to Investigative Resolution Standards for detailed investigation rights, options, and procedures. 6. If there are findings or action steps as a result of an investigation, partner with the employing unit and OIE to ensure the proper action steps are taken and implemented.
Office of Institutional Equity	<ol style="list-style-type: none"> 1. Responds, evaluates, and investigates all complaints of discrimination and harassment. 2. Provides available options for resolution and will communicate options to the parties. 3. Consult with and guide units, supervisors and employees regarding this policy. 4. Partner with the Office of Human Resources during investigations involving employees. 5. Partner with the Office of Human Resources and respective employing units to effectuate affirmative action and equal employment opportunity requirements. 6. Ensure confidentiality of individuals with HIV infection, genetic information, or other issues governed by this policy. 7. Refer to Investigative Resolution Standards for detailed investigation rights, options, and procedures. 8. If there are findings or action steps as a result of an investigation, partner with the employing unit and Office of Human Resources to ensure the proper action steps are taken and implemented.

Resources

Support and Medical Resources

For information about support resources, including confidential and non-confidential, and medical resources, visit equity.osu.edu or titleIX.osu.edu.

Forms

Equal Employment Identification form, hr.osu.edu/services/affirmative-action/

Governance Documents

Americans with Disabilities Act, dol.gov/general/topic/disability/ada

Age Discrimination Act of 1975, dol.gov/agencies/oasam/regulatory/statutes/age-discrimination-act

Age Discrimination in Employment Act, eoc.gov/statutes/age-discrimination-employment-act-1967

Code of Student Conduct, studentaffairs.osu.edu/csc/

Corrective Action and Involuntary Termination 8.15 policy, hr.osu.edu/policy/policy815.pdf

Executive Order 11246, dol.gov/agencies/ofccp/executive-order-11246/as-amended

Genetic Information Nondiscrimination Act, eoc.gov/statutes/genetic-information-nondiscrimination-act-2008

Investigative Resolution Standards, equity.osu.edu/sites/default/files/investigative_resolution_standards.pdf

Ohio Executive Order 2019-05D, governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/2019-05d

Ohio Revised Code Section 4112, codes.ohio.gov/orc/4112

Pregnancy Discrimination Act, eoc.gov/pregnancy-discrimination

Rehabilitation Act of 1973, Sections 503 and 504, eoc.gov/policy/rehab.html



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- Rules of the University Faculty, 3335-5-04, trustees.osu.edu/bylaws-and-rules/3335-5
- Sexual Misconduct 1.15 policy, policies.osu.edu/assets/docs/policy_pdfs/SexualMisconduct_FINAL.pdf
- Student Employment 10.10 policy, hr.osu.edu/policy/policy1010.pdf
- Title VI of the Civil Right Act of 1964, dol.gov/agencies/oasam/regulatory/statutes/title-vi-civil-rights-act-of-1964
- Title VII of the Civil Rights Act of 1964, eeoc.gov/statutes/title-vii-civil-rights-act-1964
- Title IX of the Education Amendments of 1972, justice.gov/crt/title-ix-education-amendments-1972
- Vietnam Era Veterans’ Readjustment Assistance Act of 1974, dol.gov/agencies/ofccp/vevraa/as-amended

Additional Guidance

- Equal Employment Opportunity Commission, eeoc.gov
- National Human Genome Research Institute, genome.gov, genome.gov/10002077
- Notice of Non-Discrimination, equity.osu.edu/sites/default/files/policy110-non-discrimination-notice.pdf
- Posters, hr.osu.edu/services/affirmative-action/

Contacts

Subject	Office	Telephone	E-mail/URL
Policy questions	Office of Institutional Equity	614-247-5838	equity@osu.edu equity.osu.edu
ADA questions and reasonable accommodations	ADA Coordinator, Office of Institutional Equity	614-292-6207	ada-osu@osu.edu ada.osu.edu
Workplace accommodations, including coordination of return-to-work and remain-at-work	Integrated Absence Management and Vocational Services, Office of Human Resources	614-292-3439	hr-integrateddisability@osu.edu
Student accommodations	Student Life Student Disability Services	614-292-3307	slds.osu.edu
Title IX questions	Title IX Coordinator, Office of Institutional Equity	614-247-5838	titleIX@osu.edu titleIX.osu.edu

History

- Issued: 10/01/1973
- Revised: 10/01/1980
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- Revised: 02/01/2012
- Edited: 09/01/2013
- Revised: 09/01/2015
- Interim Revised: 08/01/2019 Transferred ownership from Office of Human Resources to Office of Institutional Equity
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- Interim Revised: 08/14/2020