

Procedure Number: 01-01-001

Procedure Title: PROHIBITED COMPLAINT PROCEDURES

Effective Date: November 13, 2014

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1. **Introduction**

These procedures describe the process for addressing complaints of prohibited discrimination, harassment, and retaliation filed pursuant to OHSU Equal Opportunity Complaints Policy No. 03-05-050. The policy shall prevail when a conflict exists between these procedures and the policy.

2. **Definitions**

“Appropriate Administrator”: An administrator having responsibility for the work, service, or academic unit involved and who is not an accused party or a Complainant. This person has responsibility for the Appropriate Individual identified in Step 1.

“Appropriate Individual”: A person with direct responsibility for the work, service or academic unit involved, such as the immediate supervisor, patient advocate or advisor.

“Complainant”: The individual who raises concerns about prohibited discrimination, harassment, or retaliation.

“Complaint”: The informal or formal concern alleging prohibited discrimination, harassment, or retaliation.

“Harassment”: See definition in OHSU Policy No. 03-05-032.

“Human Resources”: A responsible Human Resources employee for the unit where the Complainant and/or Respondent work.

“Respondent”: The individual accused of engaging in prohibited discrimination, harassment, or retaliation.

“Sexual Harassment”: See definition in OHSU Policy No. 03-05-035.

“Title IX”: The federal law prohibiting discrimination on the basis of sex or gender in any education program, employment, admissions, or activity operated by a recipient of federal financial assistance, such as OHSU. Discrimination on the basis of sex or gender includes (but is not limited to) gender-based harassment, sexual harassment, sexual misconduct, sexual violence, and retaliation relating to complaints of sex or gender discrimination.

“Title IX Coordinator”: The Director of the AAEO Department and the person responsible for implementing OHSU’s Title IX policy and procedures.

3. **The Complaint Procedure**

A. **Step 1: Informal Process for Employees and Employment Applicants**

Any person having a discrimination complaint, including a complaint alleging harassment or retaliation, and who is eligible to use this procedure is encouraged to bring the complaint to the attention of the Appropriate Individual with direct responsibility for the work, service, or academic unit involved, as soon as possible from the date that the person knew or should have known of the alleged discrimination.

The Complainant may withdraw from the informal process and pursue the formal complaint process at any time.

Complaints of sexual misconduct, sexual touching, or sexual violence are not appropriate for informal resolution and will be resolved using the Step 2 formal complaint process.

Upon being notified of a complaint, the Appropriate Individual shall notify the AAEO Department, Title IX Coordinator, or Human Resources. The Complainant and the Appropriate Individual or Title IX Coordinator shall meet to discuss the complaint in an attempt to resolve the matter in a satisfactory manner, but the extent of any investigation is at the discretion of the AAEO Department, Title IX Coordinator, or Human Resources, as appropriate. For purposes of this document, a satisfactory resolution is one that is acceptable to the Complainant and the Respondent, and also to the AAEO Department, Title IX Coordinator, or Human Resources.

The AAEO Department or Human Resources shall assist in implementing the resolution(s). The AAEO Department, Title IX Coordinator, Human Resources, or the Appropriate Individual for the Complainant or Respondent shall send a closure letter or email communication to each Complainant and Respondent confirming the complaint has been resolved and specifying the resolution. Such letter or communication will likely be sent within sixty (60) days of the first meeting between Complainant and AAEO, the Appropriate Individual, or Title IX Coordinator, unless the complexity of the investigation or other circumstances necessitate additional time.

B. **Step 1.1: Informal Process for Applicants for Educational Programs, Patients, Students, Trainees, Volunteers and Others**

This process applies the same procedures as stated in Step 1; however, the Complainant works with the AAEO Department or Title IX Coordinator, as appropriate, to address the concern(s). The Complainant may withdraw from the informal process and pursue the formal complaint process at any time.

Complaints of sexual misconduct, sexual touching, or sexual violence are not appropriate for informal resolution and will be resolved using the Step 2 formal complaint process.

C. Step 2: Formal Complaint Process for Employees and Employment Applicants

If the Complainant and Respondent are not able to reach a mutually acceptable resolution of the complaint or if the Complainant chooses not to pursue the informal process or if the complaint is not appropriate for informal resolution, the Complainant may file a formal complaint with the AAEO Department, Title IX Coordinator, or Human Resources.

If the Complainant chooses not to use the informal process, then a formal written complaint should be filed as soon as possible from the time the Complainant knew or should have known of the alleged discrimination, harassment, or retaliation. Individuals are encouraged, but not required, to use the AAEO complaint form. Individuals opting not to use the AAEO complaint form may submit a written statement and/or meet with an AAEO representative to submit their concern(s). The extent of any investigation is at the discretion of the AAEO Department, Title IX Coordinator, or Human Resources, as appropriate.

The written complaint shall include a full description of the alleged discrimination, harassment, or retaliation; the identities of any respondents (if known); and the redress sought. If the complaint is deemed appropriate for investigation, the AAEO Department, Title IX Coordinator, or Human Resources shall interview the Complainant and conduct an appropriate investigation into the facts surrounding the complaint. An appropriate investigation is one that conforms to the AAEO Department, Title IX, and/or Human Resources procedures and includes (but is not limited to) notice of the complaint to the Respondent and an opportunity for the Complainant and Respondent to present, and have considered, any relevant information.

Allegations and evidence shall be reviewed using a preponderance of the evidence standard. A preponderance of the evidence means that it is more likely than not that an allegation is true.

The AAEO Department, Title IX Coordinator, or Human Resources will strive to complete its investigation within thirty (30) to sixty (60) days of receipt of a formal complaint, unless the complexity of the investigation or other circumstances necessitate additional time. After completing the investigation or arriving at a satisfactory resolution, the AAEO Department, Title IX Coordinator, or Human Resources shall prepare a fact-finding report (Step 2 report) that may include recommendations to the Appropriate Individual or Appropriate Administrator for corrective or remedial action. Human Resources and the Appropriate Individual or Appropriate Administrator shall implement action(s) in response to the complaint, as appropriate, and shall

periodically inform the AAEO Department or Title IX Coordinator of the progress in implementing such action(s). If asked by Human Resources, the Appropriate Individual, or the Appropriate Administrator, the AAEO Department or Title IX Coordinator will assist such implementation.

The Appropriate Individual, Appropriate Administrator, AAEO Department, Title IX Coordinator, or Human Resources shall provide a closure letter or email communication to each Complainant and Respondent as notification of investigative findings, if any.

D. Step 2.1 Formal Complaint Process for Applicants for Educational Programs, Patients, Students, Trainees, Volunteers and Others

Follow the procedures in Step 2, but work with the AAEO Department or Title IX Coordinator, as appropriate, to address the complaint.

E. Further Review

Complainants who are not satisfied with the results of the AAEO complaint process or who choose not to pursue the AAEO complaint process may, at any time, contact the Oregon Bureau of Labor and Industries, the Equal Employment Opportunity Commission, the U.S. Department of Education Office for Civil Rights (1-800-421-3481), and/or any other state or federal agency responsible for enforcing laws governing prohibited discrimination, harassment, and retaliation in education, employment, and patient care related activities and services.

Related policies, procedures and forms:

Policy No. 03-05-030, Equal Opportunity

Policy No. 03-05-032, Harassment

Policy No. 03-05-035, Sexual Harassment

Policy No. 03-05-037, Religious Exercise and Religious Expression in the Workplace and Educational Environment

Policy No. 03-05-040, Employment of Family Members

Policy No. 03-05-045, Conflicting Consensual Relationships

Policy No. 03-05-050, Equal Opportunity Complaints

Policy No. 08-01-005, Access for Members of the Public to OHSU Programs, Services, and Activities

Policy No. 11-20-010, Acceptable Use of Computing and Telecommunications Resources

OHSU Code of Conduct

OHSU Sexual Harassment Pamphlet

Prohibited Discrimination and/or Harassment Complaint Form

Implementation date: November 13, 2014

Responsible Office: Affirmative Action and Equal Opportunity (AAEO) Department