

High Level Overview of 2021 Covington Report

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Content Warning

Be aware that this slide deck contains topics that may be activating for survivors of gender and racial violence. The Confidential Advocacy Program can be reached 24/7 by calling 833-495-2277. Additional resources for OHSU members are available at this website:

<https://o2.ohsu.edu/people-problems-at-work.cfm>

Background and Context

- Prompted by recent concerns related to gender and racial discrimination as well as certain specific incidents, such as those alleged in the recent *A.B. v. Campbell* lawsuit, the OHSU Board of Directors decided to undertake a broad review of the university's institutional culture.
- To do this, OHSU retained the law firm Covington & Burling LLP and asked Eric Holder, former Attorney General of the United States, and his partner Nancy Kestenbaum to lead an independent and thorough investigation regarding “...*inequitable treatment, discrimination, harassment, bullying, or intimidation based on race, color, religion, national origin, disability, age, marital status, sex (including pregnancy), sexual orientation, gender, gender identity or gender expression*” by assessing whether OHSU's current policies, procedures and practices are optimally-designed to ensure that individuals are treated equitably, to prevent misconduct and to ensure best practices.

Report to the Board of Directors of Oregon Health & Science University



Eric H. Holder, Jr.
Nancy Kestenbaum
Covington & Burling LLP

Institutional Culture Challenges

1. OHSU has failed to create an environment which community members feel values diversity, equity, and inclusion (“DEI”) and makes them feel welcome and safe.
2. Community members report differing experiences at OHSU based on protected characteristics, status, or position within the institution.
3. Community members perceive significant risks and few benefits from reporting misconduct.
4. Community members believe that OHSU does not hold people equally accountable for misconduct.
5. Community members perceive that OHSU tends to view reports of misconduct with skepticism and doubt.

Covington Findings (which flow from, contribute to, or exacerbate these cultural challenges)

1. *OHSU's actions and communications with respect to DEI, misconduct, and Human Resources ("HR") issues are sometimes misaligned with its stated values.*

Community members believe that OHSU sometimes fails to take meaningful action to further its values and commitments. Moreover, certain of OHSU's communications conflict with its values and commitments and fail to take into account the perspective of relevant stakeholders.

2. *OHSU has not established clear DEI priorities, an institution-wide strategy to drive change, or policies that effectively address DEI.*

Personnel at OHSU's Center for Diversity and Inclusion ("CDI") have lacked an understanding of OHSU's DEI priorities, leading to a failure of execution. Without a clear and cohesive DEI strategy across the institution, diversity efforts have been siloed and disjointed. Furthermore, OHSU's Code of Conduct and other policies do not effectively address DEI.

3. *OHSU's policies and procedures addressing misconduct and reporting are inconsistent and lack clarity and precision.*

OHSU's Code of Conduct and policies relevant to this review inconsistently address discrimination, harassment, and retaliation. OHSU also provides inconsistent guidance about how to report and investigate misconduct, its mandatory reporting policies and procedures are unclear, and its complaint investigation procedures lack sufficient detail and are applied inconsistently.

Covington Findings (which flow from, contribute to, or exacerbate these cultural challenges)

- 4. OHSU lacks a consistent process for addressing and documenting concerns about misconduct, resulting in employee dissatisfaction and disciplinary outcomes that are not always fully informed or effectively implemented.***

OHSU has not adopted a formal policy establishing a clear division of responsibility over misconduct complaints, which has led to dissatisfaction with the handling of complaints and mistrust of HR and OHSU's Affirmative Action and Equal Opportunity ("AAEO") function. In addition, OHSU has not maintained adequate records or data related to complaints, dispositions, and employee departures, resulting in some disciplinary outcomes based on incomplete information.

- 5. OHSU has historically devalued and marginalized the HR function through its failure to provide it with sufficient resources, experienced leadership, or adequate authority.***

OHSU has not provided HR or AAEO with sufficient resources to address the volume of complaints they receive. HR has lacked experienced and sustained leadership and has been hampered by significant leadership turnover for more than a decade. HR lacks the authority to make binding disciplinary decisions. The inability of HR to implement discipline, and the ease with which its recommendations can be disregarded, marginalizes the function.

Covington Recommendation Themes

- *Tone from the Top*
- *Resources and Staffing*
- *Policies and Procedures*

Recommendations: *Tone from the Top*

1. Affirm resolute commitments to diversity, equity, inclusion, and anti-racism.
2. Elevate diversity, equity, and inclusion throughout the institution by fully and cohesively incorporating these concepts into OHSU's policies, practices, and culture.
3. Strengthen accountability and ensure that all OHSU community members understand the importance of meeting the institution's expectations regarding conduct and culture.

Recommendations: *Resources and Staffing*

1. Conduct a rigorous, competitive, and nationwide search for a highly qualified candidate for a Vice President (“VP”) or Senior Vice President (“SVP”) of HR, with relevant and sustained leadership experience, and ensure that this individual acts as a strategic partner to the executive leadership team, bringing professionalism to the HR function and supporting achievement of OHSU’s DEI goals and objectives.
2. Centralize HR functions so that all HR professionals across the institution ultimately report up to the VP (or SVP) of HR.
3. Provide HR and AAEO personnel who conduct investigations sophisticated mandatory training on investigative procedures, including Title IX procedures.
4. Restructure, increase, and diversify staffing in HR and AAEO.

Recommendations: *Policies and Procedures*

1. Clearly define prohibited conduct throughout OHSU's policies and explain how the institution addresses such misconduct.
2. Revise and streamline reporting and investigation procedures to ensure more clear and consistent processes for reporting parties, mandatory reporters, and investigators.
3. Streamline the channels listed in policies and guidance documents related to reporting.
4. Strengthen mandatory reporter provisions in all relevant policies.
5. Incorporate strong non-retaliation provisions throughout OHSU's policies, and communicate broadly the institution's prohibition on retaliation.

Next Steps

- University Level
 - Transparent communications about findings and recommendations
 - University cabinet to discuss findings and recommendations today
 - Senior leadership will determine and then broadly share action steps
- School of Medicine Diversity Affairs Committee
 - In-depth discussion at the January 2022 committee meeting
 - Determine how and whether the new SOM Diversity, Equity, Inclusion and Anti-racism Plan (SOM DAP) should change
 - Increased communication and direction with Center for Diversity and Inclusion