

Guidelines for Investigating Complaints of Discrimination/Harassment

Used in conjunction with [Policy 2001.03 –Discrimination/Harassment](#) and [Policy 2001.01 – Equal Opportunity Discrimination Complaint Procedure](#)

The University has a compelling obligation to address allegations and suspected instances of discrimination and harassment when it obtains information that would lead a reasonable person to believe that Policy 2001.03 has been violated. The Office of Equal Opportunity and Diversity (EOD) is responsible for investigating formal complaints of discrimination and/or harassment. The University also has a compelling interest in addressing complaints through an informal voluntary resolution process.

The University seeks to eliminate discrimination and harassment through education and encourages staff, faculty, graduate assistants, students, student employees and volunteers to report concerns or complaints. Prompt corrective measures consistent with the severity of the offense will be imposed consistent with the applicable University procedures and may include sanctions and/or discipline. These guidelines are intended to be used in conjunction with Policy 2001.03 – Discrimination/Harassment. See also Policy 2001.01 – Equal Opportunity Discrimination Complaint Procedures.

These guidelines have been established to provide assistance and specific guidance on how to investigate a complaint of discrimination and/or harassment. These procedures are meant to provide an equitable and consistent methodology that will address alleged violations in a prompt and efficient manner.

Initiating a Complaint of Discrimination or Harassment

The University encourages all complaints to be reported promptly to EOD. Delays in reporting complaints will make it more difficult for the University to conduct its investigation. Individuals, however, may report a complaint at any time, and it will be investigated to the extent that it is feasible. A complainant (the person who complains) also has the right to file a complaint with external agencies including, but not limited to, the Ohio Civil Rights Commission, the Equal Employment Opportunity Commission and/or the Department of Education; and utilizing the internal complaint procedure will not extend the deadline for filing a complaint with the external agencies. However, it is recommended that the complainant first exhaust the internal complaint procedures by promptly reporting the complaint.

Individuals who wish to make a complaint of discrimination should:

- 1 In simple situations¹, talk with the responsible party or seek to resolve the situation in consultation with the unit supervisor or contact the chair of the Equal Opportunity Compliance Committee (EOC) for an informal voluntary resolution. (The Director of Equal Opportunity and Diversity will assist the complainant with determining whether an informal

¹ For example, a simple situation could be if one person makes a comment that offends another person. The second person expresses their offense, they discuss it and the issue is resolved to the satisfaction of both parties, and no subsequent incidents occur. Another example might be when a supervisor observes a minor isolated inappropriate behavior by an employee, addresses the situation, and it does not reoccur. Examples of non-simple situations are if a tangible academic or employment action occurs, or a pattern of behavior appears, unwelcome physical contact, etc. (This is not an exhaustive list.) These non-simple matters should be addressed by contacting the Office of Equal Opportunity and Diversity.

resolution is attainable.) A note of actions taken with simple situations should be documented in the supervisory file.

2. If the issue is not resolved, contact EOD to file a formal complaint. The complainant can also submit a completed Discrimination/Harassment Complaint Form. The form is available on the EOD website at <http://www.ysu.edu/eod/> or contact the Office of Human Resources.
3. Provide witnesses and/or documentation from individuals that have first-hand knowledge of the situation.
4. Respect the confidentiality of all parties.
5. Keep the investigator informed of any new concerns or retaliation.

Responsibilities for Resolving Complaints

1. Any supervisor, including executive and administrative officers, chairs, executive directors/directors, or faculty supervisors
 - In simple situations, attempt to resolve the matter yourself or contact the chair of the EOC and with his/her collaboration attempt to resolve the issue in a timely manner.
 - Address all concerns promptly and thoroughly.
 - Respect the confidentiality of all parties.
 - Refer individuals to available University resources if consultation and/or counseling assistance is needed.
 - If the situation cannot be successfully resolved, a formal complaint should be submitted to EOD. EOD investigates all complaints. The Office of Human Resources may also need to be contacted to assist with the complaint. (A member of the EOC can also be contacted to assist with resolving the complaint.)
2. The Equal Opportunity Compliance Committee (EOC)²
 - Attempt timely resolution of workplace issues by notifying and collaborating with EOD.
 - Address all concerns promptly and thoroughly. (A brief summary that reflects the facts and agreed upon resolution should be documented and forwarded to EOD.)
 - Respect the confidentiality of all parties.
 - Refer individuals to available University resources if counseling assistance is needed.
 - If a satisfactory resolution is reached within 24 calendar days from the filing of the informal complaint, through voluntary informal resolution, the case shall be closed and written notices will be sent to the Complainant and the Respondent. If the informal voluntary resolution procedure cannot resolve the complaint within 24 calendar days, the chair shall contact the Director of EOD, and the complainant will be notified to proceed with the Formal Complaint Procedure.

² The Equal Opportunity Compliance Committee is a trained group of University community members which includes administrators, faculty, administrative staff, classified staff, and students. The purpose of the Committee is to advise and present to the Director of Equal Opportunity and Diversity (or designee) issues and concerns of the University community on matters relating to equal opportunity and affirmative action at YSU. The Committee is also trained to address informal complaints of discrimination and/or harassment.

3. Office of Equal Opportunity and Diversity

- Conduct all formal investigations following these guidelines.
- Maintain data regarding complaints of discrimination and harassment.
- Collaborate with the EOC and departments/divisions to reduce instances of discrimination and harassment.
- Communicate investigation findings to the appropriate unit or higher-level administrator, complainant and accused.
- Recommend appropriate corrective measures in consultation with the Office of Human Resources and/or Office of General Counsel.
- Monitor corrective measures to ensure compliance.

Investigating Formal Complaints of Discrimination/Harassment

Any member of the EOC, supervisor, including executive and administrative officers, chair, executive director/director, or faculty supervisor or faculty member who becomes aware of an allegation should notify EOD about the allegation by ensuring that a Discrimination/Harassment Complaint Form or other appropriate documentation is filed within five working days of becoming aware of the allegation. The Complaint Form/documentation will initiate collaboration between EOD and/or the Office of Human Resources to proceed with resolving the complaint.

Investigator Duties

1. Investigations will be a collaborative effort between the unit and EOD whenever possible. Individuals will be informed of the investigation and its progress on a timely basis.
2. The complainant may:
 - File a complaint with EOC or seek to resolve the issue through the guidance of EOC.
 - File a grievance under the nondiscrimination clause of the appropriate collective bargaining agreement.
3. The investigator will discuss the following with the complainant and accused:
 - The behaviors and any related issues that gave rise to the complaint.
 - The policy under which the complaint is brought and these investigation guidelines. Copies of both will be provided.
 - The University has a compelling obligation to address complaints and suspected instances of discrimination and harassment. The University is not precluded from taking any action it deems appropriate, including informing the accused of the allegations and pursuing an investigation even in cases when the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary.
 - The manner and frequency with which they will be updated about the status of the investigation.
 - The importance of confidentiality during the investigation. To the extent possible, the University will make every reasonable effort to conduct all proceedings in a manner

that will protect the confidentiality of all parties. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.

- Ohio Public Records Law. Upon conclusion of the investigation, records may be made available to the extent mandated by law.
 - University policy and state and federal law prohibit retaliation against an individual for reporting discrimination/harassment or for participating in an investigation. The University will not tolerate retaliation of any form against any faculty, staff, student, or volunteer who files a complaint, serves as a witness, assists a complainant, or participates in an investigation of discrimination or harassment. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the discrimination/harassment complaint. Allegations of retaliation should be directed to EOD.
4. The investigator will ensure that the Discrimination/Harassment Complaint Form is completed.
 5. The investigator, in collaboration with a member of the EOC, will determine if special provisions are necessary to ensure that no discrimination/harassment occurs against the complainant while the investigation is pending.

Investigation Process

1. Purpose of the Investigation

- The purpose of the investigation is to evaluate the allegations of discrimination/harassment, formulate a response that addresses the facts as they are determined, and follow up to ensure that the necessary action steps are completed.

2. Method of Investigation

- Depending on the facts of the case, an investigation may range along a continuum from a one-on-one conversation with the accused with an agreement as to further interactions; to an inquiry with several witness interviews. During the investigation, the investigator may interview the parties, witnesses who have first-hand knowledge of the events and gather relevant documents. After analyzing all the information, the investigator will prepare a case report with findings and detailed action steps to be implemented by the unit and the parties. Prior to the release of the case report, the Office of General Counsel will review the report and discuss with the investigator any procedural issues, the specific findings and recommended and necessary actions steps. After this review, the case report will be delivered to the parties. If disciplinary action and/or termination is taken, employees covered by a collective bargaining agreement should refer to their respective agreements. All other employees should refer to 7017.01 Administrative Appeal Process – Exempt Employees. In every case, a record must be made of the allegations, investigation, and action taken.

3. Presence of Support Persons

- The complainant and accused may choose an individual to accompany them at the initial interview and subsequently, as appropriate.

4. Time Period for Resolution of an Allegation

- Investigations should be concluded within 45 calendar days (if not sooner) from the date the complaint was filed. If this is not reasonably possible, the investigator should inform the complainant and accused of the status of the review and an estimated conclusion date.

5. Possible Outcomes

An investigation may result in one of the following findings:

- a. A determination that there is sufficient evidence to indicate a violation.
- b. A determination that there is insufficient evidence to indicate a violation.
- c. A determination that inappropriate behavior or other policy violation has occurred.
- d. A determination that there is sufficient evidence to indicate that an allegation is false.

If discrimination, harassment, false allegation, inappropriate behavior, or other policy violation has occurred, the University will take necessary action steps to correct the behavior. A false charge occurs when someone intentionally reports information or incidents that they know to be untrue or make such charges that are malicious with reckless disregard to the truth. The department should take prompt remedial action consistent with the severity of the offense, if any, and all applicable University rules and regulations. The necessary action steps for the department to take will be provided to the appropriate administrator who is responsible for implementation.

6. Concluding the Investigation

At the conclusion of the investigation, the investigator will inform the appropriate unit or higher-level administrator, complainant, and accused of the outcome.

7. Written Report of Outcomes

Within 10-15 work days of informing the complainant and accused of the investigation outcome, the investigator will prepare a written summary of the outcome of the investigation.

Corrective Action Implementation

Where discrimination or harassment is found, steps will be taken to ensure that the behavior is stopped promptly. Appropriate corrective action may range from counseling, written reprimands, suspensions, or other action up to and including dismissal, in accordance with established University rules and procedures. (For cases involving collective bargaining members, corrective measures may be imposed in accordance with the applicable collective bargaining agreements.) In cases involving students (undergraduate or graduate) acting in their employment capacity, corrective measures are imposed with established University rules and procedures. In all other cases, measures may be imposed in accordance

with the Code of Student Conduct (undergraduate or graduate). The Office of Equal Opportunity and Diversity will monitor corrective action to ensure compliance.

Confidentiality

To the extent possible, all information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except to the extent it is necessary to disclose particulars in the course of the investigation or when compelled to do so by law. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process.

Retaliation

University policy and state and federal law prohibit retaliation against an individual for reporting discrimination or harassment, or for participating in an investigation. The University will not tolerate retaliation in any form against any faculty, staff, student, or volunteer who files an allegation, serves as a witness, assists an alleege, or participates in an investigation of discrimination or harassment. Retaliation is a serious violation that can subject the offender to sanctions and/or discipline independent of the merits. Allegations of retaliation should be directed to EOD.

Academic Freedom

When the alleged discrimination/harassment takes place in an instructional setting and the accused believes the allegation of discrimination/harassment infringes upon academic freedom, a member of the EOC committee will be consulted. This designee will have access to all pertinent information regarding the investigation to assure due regard for academic freedom. The designee will address concerns about the investigation process with the investigator as necessary.

Record Keeping

The Office of Equal Opportunity and Diversity will maintain a written record of all witness interviews, evidence gathered, the outcome of the investigation, and any other appropriate documents. Investigation records will not be maintained in personnel files or student files unless they are part of a formal corrective action. Investigation records will be maintained in accordance with University record retention schedules. When a complaint is filed outside the University, information gathered in the course of the internal investigation may be disclosed to the investigating agency.

A full set of investigation paperwork will be housed at EOD, including complaint form and/or notes, investigation notes, any relevant documentation or evidence, case report if appropriate, and letters of notification of findings and necessary action steps. If corrective action is issued, a letter documenting the action should be included in the discrimination/harassment investigation file. When corrective action is taken, the employing unit will house a file including the case report, letters of findings, and corrective action documents.

RESOURCES

For consultation and/or counseling:

- Office of Equal Opportunity and Diversity, 330-941-3370
- Office of Human Resources, 330-941-3122
- The Equal Opportunity and Compliance Committee, 330-941-3370
- Office of Student Affairs through the Ombudsperson, 330-941-3571
- Office of Disability Services, 330-941-1372
- Office of Academic Affairs, 330-941-3103
- Office of Student Affairs, 330-941-3532
- Office of Career and Counseling Services, 330-941-3515
- Housing and Residence Life, 330-941-3547

For more information:

- The Youngstown State University Records Management Office – www.yсу.edu
- Discrimination/Harassment Complaint Form—<http://www.yсу.edu/eod/>
- Collective Bargaining Agreements (Faculty, Classified, APAS, FOP)
- Policy 2001.01 - Equal Opportunity Discrimination Compliant Procedure
- Policy 2001.02 - Equal Opportunity and Affirmative Action Recruitment and Employment
- Policy 2001.03 - Discrimination/Harassment
- Policy 7013.01 - Nepotism and Potential Conflicts in Employment Situations
- Policy 7017.01 - Administrative Appeal Process – Exempt Employees
- Policy 7022.01 - Conduct on Campus
- Policy 8001.01 - Student, Rights, Responsibilities, and Conduct (*The Code*)
- Policy 9006.01 - Professional Conduct of Faculty, Department Chairpersons, and Professional/Administrative Employees