

# **EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY**

## **1. SCOPE OF THE POLICY**

Mount St. Joseph University (the “University”) is committed to providing a working and educational environment free from discrimination and harassment on the basis of race, color, origin, religion, age, disability, sex (sexual orientation and gender identity) or any other legally protected status. This policy focuses on incidents of discrimination, harassment, or retaliation related to race, color, national origin, religion, age, disability, or other legally protected statuses. For incidents of sex discrimination, sexual misconduct, and interpersonal violence please see the University’s [Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy](#).

This policy applies to all University community members, including students, prospective students, employees, professors, administrators, visitors, or other third-parties. This policy applies to all of the University’s education programs and activities, including but not necessarily limited to admissions policies, educational programs, scholarships, loans, and other financial aid, athletic and other University-administered programs, services, and activities, or in employment. This policy applies not only to conduct occurring within the typical classroom or campus settings, but also to any location owned or operated by the University as well as University-sponsored or University-sanctioned functions taking place outside of those typical settings.

The University expects that all members of its community will help promote a learning environment free from the conduct prohibited under this policy. Any off-campus conduct that has an actual or potential adverse impact on another’s working or learning environment may also violate this policy. The University will consider the effects of off-campus conduct—including conduct that did not occur in the context of an education program or activity—when evaluating whether there is a violation of this policy.

All inquiries regarding the scope or application of this policy should be referred to the Equal Opportunity Coordinator.

## **2. NOTICE OF NON-DISCRIMINATION**

The University does not tolerate discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex (sexual orientation and gender identity) or any other legally protected status and takes steps to ensure that students, employees, visitors, and other third-parties are not subject to a hostile environment.

The University will respond promptly and effectively to allegations of discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex (sexual orientation and gender identity) or another legally protected status. The University will promptly conduct investigations and take appropriate action, including disciplinary action, against individuals found to have violated this policy, as well as provide appropriate remedies to complainants and the campus community. The University will take immediate action to end a hostile environment if one has been created, prevent its recurrence, and remedy the effects of any hostile environment on affected members of the campus community.

All students found in violation of this policy will be subject to disciplinary action up to and including suspension or dismissal from the University. Similarly, any employee found in violation of this policy shall be subject to disciplinary action up to and including termination of employment. Behavior that violates this policy may also violate federal, state, and/or local laws.

### **3. ANTI-HARASSMENT**

The University's prohibition against discrimination also includes harassment. Harassment of any person or group of persons, on the basis of race, color, national origin, religion, age, disability, sex (including sexual orientation and gender identity), or any other legally protected status, is prohibited by the University. Prohibited harassment includes any words or conduct (verbal, physical, graphic or written) directed against any person or group of persons because of their race, color, national origin, religion, age, disability, sex (including sexual orientation and gender identity), or any other legally protected status. Prohibited harassment also includes any words or conduct (verbal, physical, graphic, or written) that has the purpose or reasonably foreseeable effect of creating an offensive, demeaning, intimidating, or hostile environment for any person or group of persons. Such words or conduct include, but are not limited to, epithets, slurs, negative stereotyping, demeaning depictions or treatment, and threatened or actual abuse or harm. Inappropriate or unprofessional remarks or other conduct may be reason for intervention and/or discipline whether or not they are actually harassing. This policy prohibits inappropriate conduct even before it rises to the level of illegal discrimination, harassment or retaliation.

### **4. ANTI-RETALIATION**

The University will not tolerate any form of retaliation taken against anyone who makes a complaint of conduct prohibited by this policy or anyone who cooperates in the investigation of a complaint of conduct prohibited by this policy.

### **5. EQUAL OPPORTUNITY OFFICE AND COORDINATOR**

The University has designated its Office of Human Resources as its Equal Opportunity Office. The Equal Opportunity Office is managed by the University's Director of Human Resources, Lisa Kobman, who is also the University's designated Equal Opportunity Officer. Ms. Kobman can be reached at (513) 244-4979 or by emailing [lisa.kobman@msj.edu](mailto:lisa.kobman@msj.edu). The Equal Opportunity Office is the office responsible for responding to inquiries, addressing complaints, and coordinating compliance with the University's responsibilities under the various federal and state civil rights laws, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and the Americans with Disabilities Act. All inquiries, issues, or complaints relating to discriminatory, harassing, or retaliatory conduct related to race, color, national origin, religion, age, disability, or another legally protected status should be directed to the Equal Opportunity Office.

### **6. REPORTING**

The University encourages any student or employee who has experienced any conduct prohibited

by this policy to report such conduct immediately and in accordance with the procedures detailed below. Any student or employee who has witnessed or become aware of any conduct prohibited by this policy must report such conduct immediately and in accordance with the procedures detailed below. Employees who become aware of an alleged violation of this policy are required to report such conduct immediately to the Equal Opportunity Coordinator, unless there is a legal privilege of confidentiality.

While the University strongly encourages everyone to report incidents of conduct prohibited by this policy, it recognizes a victim's right to decline such reporting. Nonetheless, if the University is made aware of an allegation of conduct that is prohibited by this policy, the University may have an obligation to investigate and/or take action in response to that conduct, with or without the cooperation of the alleged victim.

Crimes (or any conduct prohibited by this policy which a student or employee may believe is a crime) in progress should be reported immediately to the MSJ Police Department at 513-244-4226 or dial 0 from any campus phone.

### **Reporting Discrimination, Harassment, or Retaliation On The Basis Of Race, Color, National Origin, Religion, Age, Disability, or Another Legally Protected Status<sup>1</sup>**

Any student or employee who has been the victim of, witnessed, or become aware of discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex (sexual orientation and gender identity) or any other legally protected class should report such conduct to the following offices:

- **Criminal complaint**
  - MSJ Police Department, (513) 244-4226 or dial 0 from any campus phone; additional information regarding reporting emergencies can be found on the [MSJ Police Department Webpage](#)
- **Institutional complaint**
  - Lisa Kobman, Equal Opportunity Officer/Director of Human Resources, (513) 244-4979, [lisa.kobman@msj.edu](mailto:lisa.kobman@msj.edu), or submit a report/complaint [Reporting Form](#)

A student or employee may file a criminal complaint, an institutional complaint, or both.

### **Anonymous Reporting**

Reports of violations of this policy can be made anonymously by calling or texting (513) 244-TIPS or emailing [244TIPS@msj.edu](mailto:244TIPS@msj.edu). These anonymous reporting options are available 24 hours a day/365 days a year.

Please note that these anonymous reporting options are not intended for any immediate safety or emergency situations. All immediate safety or emergency situations should be reported immediately to the MSJ Police Department at (513) 244-4226 or dialing 0 from any campus phone.

### **Written Statement of Rights**

Any employee or student bringing forth a complaint of discrimination or retaliation prohibited under this policy and any employee or student accused of such conduct will be provided with a written statement of their rights, reporting options, and resources.

### **Campus Security Authorities**

Reports of any type of discrimination or retaliation prohibited under this policy can also be made to any of the University's Campus Security Authorities ("CSAs"). A list of designated CSAs can be found at [CSAs List](#).

### **Confidentiality and Support**

The University may, to the extent permitted by law, honor a request by a complainant that no investigation be pursued. Confidentiality requests should be made directly to the Equal Opportunity Officer/Director of Human Resources, Lisa Kobman, (513) 244-4979 or [lisa.kobman@msj.edu](mailto:lisa.kobman@msj.edu).

If a complainant requests that the University not reveal the complainant's name to the respondent and/or asks the University to not investigate a report, this may limit the University's ability to respond fully to the incident, including pursuing disciplinary action against the respondent. However, in order to ensure a safe and nondiscriminatory environment for all students or if required to report the incident by law, the University may not be able to honor a request for confidentiality. Regarding its obligation to ensure a safe and nondiscriminatory environment, a complainant's request for confidentiality will be determined after considering factors such as the seriousness of the alleged incident, the ages of the individuals involved, other complaints that may have been filed against a respondent, and a respondent's right to receive information maintained by the University as an education record as defined by FERPA.

Additionally, the University has a duty to complete certain publicly available recordkeeping, including reporting and disclosing information about certain crimes pursuant to a federal law known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"). The University is also obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. Duties under the Clery Act will not require the University to report or disclose a complainant's personally identifying information.

Further, there may be situations where disclosing some information about a complainant is necessary to provide accommodations, supportive measures, and/or protective measures. For allegations of conduct related to discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, or any other legally protected class, the Equal Opportunity Officer/Director of Human Resources will determine what information about a complainant should be disclosed and to whom this information will be disclosed. Unless extenuating circumstances exist, the complainant will be informed before sharing personally identifying information that the University believes is necessary to provide a safe and non-discriminatory environment, to provide an accommodation, and/or to provide any protective measures.

If a student or employees tells a Campus Security Authority (“CSA”) about a criminal incident that was not reported to the MSJ Police Department, the CSA is required to report the information to the MSJ Police Department.

Students may seek support from the University’s Wellness Center [MSJ Wellness Center](#). Counselors and/or licensed health care professionals such as nurses and physicians are available to students through the Wellness Center. These trained professionals can provide students with counseling, information, and support in a confidential setting. Information shared by a student with a confidential resource at the University will not be disclosed to anyone else, including the University, except under limited circumstances. Incidents reported to a confidential resource will not be included in the University’s annual crime statistics. These confidential resources available at the Wellness Center will not share information about a student (including whether that individual has received services) without the student’s express permission, unless there is a continuing threat of serious harm to the individual patient/client or to others or there is a legal obligation to reveal such information. These support service providers are also available to help a student make a report to the University.

For employees, support from healthcare professionals may be available through the TriHealth Employee Assistance Program (EAP). The EAP is a benefit provided to all full-time and pro rata faculty and full-time, pro rata, and benefit-eligible part-time staff and members of their immediate households. The EAP may provide employees with assessment, short-term counseling, referral and follow up services. All EAP services are offered to eligible faculty, staff and household members free of charge. The TriHealth EAP can be contacted at (513) 891-1627, at 1-800-642-9794, or at [www.TriHealthEAP.com](http://www.TriHealthEAP.com). Information shared by an employee with a confidential resource through the EAP will not be disclosed to anyone else, including the University, except under limited circumstances. Incidents reported to a confidential resource through the EAP will not be included in the University’s annual crime statistics. These confidential resources available through the EAP will not share information about an employee (including whether that individual has received services) without the employee’s express permission, unless there is a continuing threat of serious harm to the individual patient/client or to others or there is a legal obligation to reveal such information.

A complainant is encouraged to make a report even if the complainant is not seeking disciplinary action against the respondent. The University will make every effort to respect a complainant’s autonomy in determining how to proceed. Support and resources are always available to a complainant regardless of the chosen course of action. Receiving a report of an incident permits the University to keep records of reported incidents and determine the appropriate response and the potential need to alert the University community to potential danger. Reported incidents will also be included in the University’s annual crime statistics as required.

### **Supportive Measures**

Supportive measures, also known as accommodations, may be available upon receipt of a report of conduct allegedly in violation of this policy. Supportive measures are designed to restore and preserve access to the University’s education programs or activities, without unreasonably burdening the other party; protect the safety of all parties and the University’s educational or

work environment; and deter conduct prohibited by this policy. Supportive measures include, but are not necessarily limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas, and other similar measures. Such steps will be designed to minimize the impact of the alleged conduct on the employment and/or educational programs of the parties involved. Supportive measures connected to reports of discrimination, harassment or retaliation on the basis of race, color, origin, religion, age, disability, or any other legally protected class are typically determined by the Equal Opportunity Officer/Director of Human Resources.

Individuals requesting additional supportive measures or experiencing difficulty with a violation of supportive measures that have been approved should immediately contact the Equal Opportunity Officer/Director of Human Resources. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and without fees or charge to the complainant or the respondent before or after the filing of an institutional complaint or where no institutional complaint has been filed. To the extent possible, any supportive measures that are provided will be confidential.

An individual may also consider seeking a protection or restraining order through a court of law. A protection or restraining order is a temporary order intended to help provide safety and protection from other individual. If you have a protection or restraining order against someone and that person violates the order in any way, law enforcement may be able to arrest that person and charge that person with a violation of the order. If needed and to the extent possible, the University will provide assistance in obtaining a protection order. To the extent possible, any such protective measures will be confidential. Please contact the Equal Opportunity Officer/Director of Human Resources for more information about these protective measures, including for contact information for law enforcement agencies and/or the prosecutor's office.

### **Other Available Resources**

Any complainant and respondent will be notified upon request regarding medical, counseling, victim advocacy, support, respondent advisor support, legal assistance, visa and immigration assistance, student financial aid assistance, and pastoral resources available through the University or through external referral sources.

## **7. INVESTIGATORY PROCEDURES**

### **Criminal Complaints**

Ohio state and/or federal law will apply and the matter will follow criminal processes through a police investigation, a referral to the Hamilton County Prosecutor's Office, and/or the criminal court system for resolution.

### **Institutional Complaints**

The University's investigation of reports/complaints of policy violations is different and separate from a criminal complaint investigation by any law enforcement agency. An ongoing law enforcement investigation does not relieve the University of its obligation to investigate

allegations of conduct prohibited by this policy. In cases involving potential criminal conduct, University personnel must determine, consistent with federal, state, and local law, whether appropriate law enforcement agencies or other authorities should be notified. Conduct may constitute a violation of this policy and result in disciplinary action by the University even if a law enforcement agency and/or court of law determines that the conduct did not constitute a crime.

All reports/complaints of conduct potentially in violation of this policy involving students and employees that are reported to the MSJ Police Department will also be referred to the Equal Opportunity Officer/Director of Human Resources for a determination into whether it should be investigated under this policy.

In the event that an alleged victim(s) declines to submit a report or file an institutional complaint and in order to ensure a safe and non-discriminatory working and educational environment, the Equal Opportunity Officer/Director of Human Resources retains the discretion to file an institutional complaint.

All individuals accused of a violation of this policy (i.e., respondents) are presumed to be not responsible for the alleged conduct and a determination regarding responsibility will be made at the conclusion of the process set forth in this policy.

#### **Informal Resolution of Institutional Complaints**

In appropriate circumstances, and with the voluntary, written consent of the complainant and respondent, the Equal Opportunity Officer/Director of Human Resources may attempt informal methods to resolve a report of an alleged policy violation without the need for additional proceedings. When informal resolution of an institutional complaint is pursued, the Equal Opportunity Officer/Director of Human Resources will provide written notice to the complainant and respondent regarding (1) the allegations; (2) the voluntary nature of the informal resolution process and the availability of a formal investigation at all times; and (3) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. Effort will be made to resolve an institutional complaint within sixty (60) days of the filing of a report. The objective of the informal process will be to resolve the complaint to the mutual satisfaction of the parties involved, if possible.

#### **Formal Investigation of Institutional Complaints**

In instances where informal methods of resolution are inappropriate or declined, a formal investigation will be conducted.

While all investigations will vary due to the individual circumstances surrounding the particular report/complaint, formal investigations under this policy will typically involve the following:

1. **Initial Review:** Preliminary review of any report/complaint by the Equal Opportunity Officer/Director of Human Resources to determine whether, on its face, a violation of the policy is alleged and a formal investigation is needed.

2. Equal Opportunity Officer Notice: If a violation of the policy is alleged, the Equal Opportunity Officer/Director of Human Resources will provide written notice to the complainant and respondent within seven (7) days of the Initial Review. Written notice will include the known details of the report/complaint, the statement of rights under this policy, notice of the procedures under this policy, notice of potential sanctions, a statement that the respondent is presumed not responsible and a determination regarding responsibility will be made at the conclusion of the process set forth in this policy, a statement informing the parties that they can request to inspect and review evidence, and a statement informing the parties that the University's code of conduct prohibits knowingly making false statements or knowingly submitting false information to the University.
3. Equal Opportunity Team Assignment: Formal investigations are coordinated by the Equal Opportunity Officer/Director of Human Resources. The Equal Opportunity Officer/Director of Human Resources will assign University employees who are trained to conduct each stage of the formal investigation process. The Equal Opportunity Team Members consist of University employees trained in the areas of antidiscrimination laws and regulations, investigations, probable cause determinations, adjudication processes, appeal processes and the University's policy.

Along with the Equal Opportunity Officer Notice, the Equal Opportunity Officer/Director of Human Resources will send a written "Initial Equal Opportunity Team Assignment" to the complainant(s) and respondent(s), which will include the names of the Equal Opportunity Team Members assigned to the particular report/complaint and each Equal Opportunity Team Member's assigned role, as follows:

- Equal Opportunity Investigator(s) (more than one member may be assigned)
- Probable Cause Official
- Adjudication Hearing Panel (three members)
- Equal Opportunity Appellate Official
- Alternate (one member, in the event that any assigned Equal Opportunity Team Member becomes unavailable)

If any complainant and/or a respondent believes that any Equal Opportunity Team Member assigned to the particular report/complaint has a conflict of interest or bias, the party must contact the Equal Opportunity Officer/Director of Human Resources in writing no more than seven (7) days (excluding University holidays) of receiving the Initial Equal Opportunity Team Assignment with an explanation of the Equal Opportunity Team Member's alleged conflict of interest or bias (a "Conflict of Interest Notice"). In the event that the Equal Opportunity Officer/Director of Human Resources timely receives a Conflict of Interest Notice, the Equal Opportunity Officer/Director of Human Resources will make any substitutions the Equal Opportunity Officer/Director of Human Resources



deems appropriate.

Similarly, if an assigned Equal Opportunity Team Member believes that the particular report/complaint poses a conflict of interest for the individual or the Equal Opportunity Team Member believes he or she has any sort of bias that cannot be set aside, the Equal Opportunity Team Member will contact the Equal Opportunity Officer/Director of Human Resources immediately and the Equal Opportunity Officer/Director of Human Resources will make any substitutions the Equal Opportunity Officer/Director of Human Resources deems appropriate.

After the Conflict of Interest Notice period has passed, the Equal Opportunity Officer/Director of Human Resources will send a written “Final Equal Opportunity Team Assignment” to the complainant(s) and respondent(s).

4. Interviews: The Equal Opportunity Investigator(s) will conduct interviews of the complainant(s), the respondent(s), and any witnesses identified by those parties. The respondent(s) shall be provided a copy of any written report/complaint or otherwise informed of the substance of any complainant’s allegations. Similarly, the complainant(s) shall be provided with a copy of any written response provided by a respondent or otherwise informed of the substance of any respondent’s response to the allegations.
4. Consideration of Evidence by Equal Opportunity Investigator(s): The Equal Opportunity Investigator(s) will gather and examine relevant documents or evidence (e.g., law enforcement investigatory records, student and/or personnel files, etc.). Both the complainant and respondent will be asked to provide a list of possible witnesses as well as any written or physical evidence (e.g., text messages, social media postings, emails, photos, medical records, etc.) that they wish to be considered by the Equal Opportunity Investigator(s).
5. Review of Evidence by the Parties: Prior to completion of the Investigation Report, the Equal Opportunity Investigator(s) will send to each party and the party’s advisor, if any, the evidence gathered during the investigation for the party’s review. The evidence will be delivered in an electronic format that restricts the parties and advisors from downloading or copying the evidence. The parties will have ten (10) days to submit written responses to the Equal Opportunity Investigator(s) for consideration prior to completion of the Investigation Report.
6. Prepare Investigation Report: Within fourteen (14) days after receiving the parties’ written response, if any, the Equal Opportunity Investigator(s) shall prepare an Investigation Report complete with a summary of interviews, relevant documents, and next steps.
7. Distribute Investigation Report: The Equal Opportunity Investigator(s) shall provide any complainant and respondent with access to the Investigation Report.

Any complainant and respondent has a right to be accompanied by one advisor or support person of the individual's choosing during any meeting with the Equal Opportunity Investigator(s). The advisor or support person is permitted to provide support, not advocate for the party or impede the investigation.

Efforts will be made to complete a formal investigation within 60 days of receiving the initial report/complaint. If for good cause the University is unable to complete a formal investigation within 60 days of receipt of a report/complaint, the Equal Opportunity Coordinator will notify any complainant and any respondent in writing of the need for additional time, the reason(s) that additional time is needed, and an approximate date for completion of the formal investigation.

## **8. ADJUDICATION PROCEDURES**

### **Probable Cause Determination**

Upon completion of the Investigation Report, the Equal Opportunity Investigator(s) will deliver the Investigation Report as well as any documents or evidence gathered by the Equal Opportunity Investigator(s) that were used to prepare the Investigation Report to the assigned Probable Cause Official.

Within seven (7) days (excluding University holidays) of receiving the Investigation Report, the Probable Cause Official will determine whether there is probable cause to believe that a violation of this policy occurred. In the event the Probable Cause Official determines that there is probable cause to believe that a violation of this policy occurred, the Probable Cause Official will issue a "Notice of Violation" in writing to any respondent and provide a copy of the Notice of Violation to any complainant. In the event that the Probable Cause Official does not find that there is probable cause to believe that a violation of this policy occurred, the Probable Cause Official will issue a "Notice of No Violation" in writing to any complainant and provide a copy of the Notice of No Violation to any respondent.

### **Request for Adjudication Hearing**

If probable cause is found and a Notice of Violation is issued, a respondent will have seven (7) days (excluding University holidays) to request an Adjudication Hearing. A request for an Adjudication Hearing must be made in writing and timely delivered to the Equal Opportunity Officer/Director of Human Resources. If a respondent does not request an Adjudication Hearing within seven (7) days (excluding University holidays) of receiving a Notice of Violation or otherwise takes responsibility for the alleged conduct, the matter will proceed for consideration as to the discipline/sanction(s) to be issued by the Probable Cause Official.

If probable cause is not found and a Notice of No Violation is issued, a complainant will have seven (7) days (excluding University holidays) to request an Adjudication Hearing. A request for an Adjudication Hearing following a Notice of No Violation must be in writing and timely delivered to the Equal Opportunity Officer/Director of Human Resources. If a complainant does not timely request an Adjudication Hearing following a Notice of No Violation or advises the Equal Opportunity Officer/Director of Human Resources in writing that the complainant will not request such a hearing, the matter will be considered closed.

### **Adjudication Hearing**

Within seven (7) days (excluding University holidays) of receiving a timely request for an Adjudication Hearing from a respondent, the Equal Opportunity Officer/Director of Human Resources will contact all parties in writing to notify them that (i) the three (3) previously assigned Adjudication Hearing Panel members will preside over the Adjudication Hearing, and (ii) to offer all parties the opportunity to request one (1) pre-hearing meeting with the Equal Opportunity Officer/Director of Human Resources. Pre-hearing meetings are not mandatory and are designed to allow the parties to ask questions regarding the Adjudication Hearing as well as to again review the Investigation Report or any documents or evidence gathered and used to prepare the Investigation Report. Each party is permitted to be accompanied by their support person or advisor during any pre-hearing meeting.

After all requested pre-hearing meetings conclude (or after they are declined), the Equal Opportunity Officer/Director of Human Resources will notify the parties of the date, time, and location of the Adjudication Hearing. The parties will receive at least ten (10) days' notice (excluding University holidays) of the Adjudication Hearing.

At least five (5) days (excluding University holidays) prior to the scheduled Adjudication Hearing, each party must identify in writing to the Equal Opportunity Officer/Director of Human Resources any and all witnesses and evidence the party intends to present at the Adjudication Hearing. Unless extenuating circumstances exist as determined by the Equal Opportunity Officer/Director of Human Resources, witnesses and evidence that were not disclosed or identified to the Equal Opportunity Investigator may not be presented at the Adjudication Hearing. The Equal Opportunity Officer/Director of Human Resources will promptly notify each party of the other party's list of witnesses and evidence for the Adjudication Hearing.

Adjudication Hearings are closed to the public. Each party is permitted to have one support person or advisor present. The support person or advisor is not permitted to participate as a vocal advocate during the Adjudication Hearing, except as otherwise noted in this policy. The Equal Opportunity Investigator(s) shall be present at the hearing.

At the Adjudication Hearing, each party will be permitted to give an opening statement. Each party will then be permitted to present evidence and/or witnesses. A party, through his or her advisor, will be permitted to pose relevant questions to the other party and/or the other party's witnesses. If a party does not have an advisor, that party will be provided with an advisor aligned with that party to conduct questioning. At the request of either party, that questioning will occur with the parties located in separate rooms with technology enabling the Adjudication Hearing Panel and parties to simultaneously see and hear the party answering the questions. If a party or witness does not submit to questioning at the hearing, the Adjudication Hearing Panel shall not rely on any statement of that party or witness in reaching its decision. Each party will be permitted to make a closing statement. Any credibility determinations made by the Adjudication Hearing Panel will not be based on the person's status as a complainant, respondent, or witness.

Within seven (7) days (excluding University holidays) of the conclusion of the Adjudication Hearing, the Adjudication Hearing Panel will issue a written "Hearing Panel Decision." The

Adjudication Hearing Panel will use a preponderance of the evidence (i.e., “more likely than not”) standard to determine whether or not an alleged policy violation occurred. The decision need not be unanimous. The Hearing Panel Decision will include (1) identification of the policy section(s) alleged to have been violated; (2) a description of the procedural steps taken from the receipt of the complaint through the determination; (3) findings of facts supporting the determination; (4) conclusions regarding the application of the policy section(s) to the facts; (5) a statement of the result and rationale as to each allegation, including a determination regarding responsibility; (6) a recommendation on any discipline or sanctions to be imposed, if any; (7) a recommendation as to remedies provided to the complainant, if any; and (8) the procedures and permissible bases for the parties to appeal.

The Adjudication Hearing Panel may consider prior policy violations, among other things, when considering the level of recommended discipline.

The Equal Opportunity Officer/Director of Human Resources will promptly and simultaneously provide the parties with a copy of the Hearing Panel Decision. The decisions contained in a Hearing Panel Decision, including recommended sanctions or disciplinary action, are final unless a Hearing Panel Decision is timely appealed under this policy. If an appeal is timely submitted, any recommended sanctions or discipline will be stayed until resolution of the appeal process.

#### **Appeal of Hearing Panel Decision**

After the Equal Opportunity Officer/Director of Human Resources notifies the parties of the Hearing Panel Decision, the parties will have seven (7) days (excluding University holidays) to submit a “Written Appeal of Hearing Panel Decision” to the assigned Equal Opportunity Appellate Official.

The only bases for a party to appeal a Hearing Panel Decision are: (1) a procedural error that has significantly impacted the outcome of the Adjudication Hearing; (2) the introduction of previously unavailable relevant evidence which would have significantly impacted the outcome of the Adjudication Hearing; or (3) where the discipline/sanction is substantially disproportionate to the Adjudication Hearing Panel’s findings.

If either party timely appeals a Hearing Panel Decision, the other party will have seven (7) days (excluding University holidays) from receipt of a copy of the appeal to submit a “Written Opposition to Appeal” to the Equal Opportunity Appellate Official. Upon receipt of the Written Opposition to Appeal or the passing of the timeframe allowed to submit a Written Opposition to Appeal, the Equal Opportunity Appellate Official will consider the appeal and will promptly issue a “Decision on Appeal.” The Equal Opportunity Appellate Official has the authority to determine that appeal criteria has not been met, to affirm the Hearing Panel Decision, reverse the Hearing Panel Decision, remand the matter back to the Adjudication Hearing Panel to consider additional evidence or remedy a procedural error, or alter the discipline/sanctions that were recommended in the Hearing Panel Decision. Any Decision on Appeal will be simultaneously issued in writing to both parties and is final.

All of the timeframes set forth in the Adjudication Procedures may be extended by a showing of good cause. Any request for an extension of time must be submitted to the Equal Opportunity

Officer/Director of Human Resources and may be granted or denied in the Equal Opportunity Officer/Director of Human Resources' sole discretion. All parties involved will be promptly notified if a time extension has been granted.

## **9. POSSIBLE DISCIPLINE/SANCTION(S)**

If it is determined that an employee of the University has engaged in conduct in violation of this policy, the employee will be promptly disciplined, up to and potentially including termination of employment, depending on the seriousness of the offense and individual circumstances. Possible sanctions and corrective actions include, but are not limited to, discrimination or harassment education, counseling, reassignment, no contact orders, demotion, suspension, non-reappointment, and termination from employment.

If it is determined that a student has engaged in conduct in violation of this policy, the student will be promptly disciplined with penalties up to and including suspension or dismissal from the University. Other sanctions include, but are not limited to, disciplinary warning, disciplinary probation, disciplinary probation with restrictions, no contact orders, fines, restitution, notification to others, educational/work assignment/community service, counseling, loss of privileges, restricted access, room transfer, termination of housing contract, or mandatory withdrawal from University housing.

Where a student or employee has been found to have engaged in conduct in violation of this policy, the University will take appropriate steps to prevent recurrence and to correct discriminatory effects on the complainant, the campus, and others, as necessary.

## **10. KNOWINGLY FALSE INFORMATION**

If it is determined by the University in its sole discretion that any individual involved in an investigation of a potential violation of this policy has deliberately or knowingly provided false information to those administering this policy, the individual will be subject to discipline, up to and including termination of employment or dismissal from the University.

## **11. RIGHT TO FILE CRIMINAL COMPLAINT AND/OR WITH A GOVERNMENT AGENCY**

Nothing in this policy should be construed as impeding or prohibiting an employee or student from pursuing a criminal complaint with the appropriate internal or external law enforcement agency or in filing a complaint with the appropriate external governmental agency. Although an employee or student with a concern or complaint is encouraged to attempt to resolve his/her grievance within this procedure when appropriate, each individual has the right to file a grievance/charge directly with the Department of Education's Office for Civil Rights, the Ohio Civil Rights Commission, or any other applicable state or federal agency.

Laws and regulations prohibiting discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex (sexual orientation and gender identity) or another

legally protected status include, but are not limited to, Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and the Americans With Disabilities Act.

## **12. EDUCATION, TRAINING AND RESOURCES**

The University offers a variety of education, training and support resources to students and employees related to discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex (sexual orientation and gender identity) or another legally protected status. Information about education and training provided by the University can be found in the [Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy](#). Information about additional resources for students and employees related to discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex (sexual orientation and gender identity) or another legally protected status can be found in the [Sexual Misconduct Brochure](#).

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<sup>1</sup> If your report/complaint involves conduct relating to sex discrimination (including sexual harassment and sexual misconduct), domestic violence, dating violence, or stalking please refer to the [Sexual Misconduct and Interpersonal Violence Policy](#). If your report/complaint relates to student disability accommodations, please refer to the University's [Student Accommodation Grievance Procedure](#).