

HR Procedures for Handling Reports & Complaints Alleging Sexual Misconduct

Upon receipt of a report alleging sexual misconduct, the HR Consultant will make an initial assessment of the reported information to determine eligibility as defined in **Policy 1340 – Title IX: Sexual Misconduct** and identify any immediate health or safety concerns raised by the report. The HR Consultant is not assessing or determining responsibility. The presumption is that no policy violation has occurred unless proven otherwise in HR adjudication process described herein.

Initial Assessment Procedures

In addition to determining eligibility and identifying any immediate health and safety concerns, the HR Consultant's initial assessment includes:

- ◆ Ascertaining whether the information contained in the report alleges sexual misconduct as defined in **Policy 1340**. If the report alleges another form of conduct prohibited by university policy and/or law, the HR Consultant will ascertain which policy the alleged incident could be addressed under.
- ◆ Ascertaining if the report provides names and/or any other information that personally identifies the Reporter, Respondent, any Incident Witnesses, and/or any third party with knowledge of the alleged incident.
- ◆ Ascertaining the ages of the Reporter and Respondent, if known, and, if either is a minor, contacting the appropriate authorities if required by the nature of the reported incident.
- ◆ Notifying the Reporter:
 - Of resources available to the reporter at the university and in the local community.
 - Of The Reporter's right to, at any time, report alleged criminal activity to law enforcement and the right to decline to contact law enforcement.
 - Of interim measures that may be implemented in order to limit contact between the Reporter and the Respondent.
 - The decision to move forward with a Formal Complaint will rest with the Reporter, except in situations where the university has determined there is an elevated risk to community and individual safety and/or the university has determined that not addressing the incident as alleged in the report would interfere with the safe and orderly operation of the university, its people, and its property.

Following the HR Consultant's initial assessment of the report and in conjunction with notification to the Reporter of available resources and options, the HR Consultant will promptly forward to the Director of HR or designee and the Title IX Office, all information then known about the alleged incident of sexual misconduct.

The Title IX Office, the Director of HR or designee, and the HR Consultant will convene to determine whether the reported information indicates that the alleged conduct would constitute sexual misconduct as defined by **policy 1340** and whether the reported information or any other available information provides a rational basis for concluding there is a threat to individual or university safety, and/or interferes with the safe and orderly operation of the university, its people, and its property.

The Human Resources Consultant, the Director of HR or designee, and the Title IX Office are not assessing or determining responsibility. They are assessing and determining what, if any, course of action may be taken to address the alleged incident based on the information then known. The

presumption is that no policy violation has occurred unless proven otherwise. The HR Consultant, Title IX Coordinator or designee, and the Director of HR or designee will convene as many times as necessary as new information is obtained.

If the HR Consultant, Director of HR or designee, and the Title IX Office determines that the information in the report alleges sexual misconduct as defined by **Policy 1340** and provides a rational basis for concluding there is a threat to individual or university safety, and/or interferes with the safe and orderly operation of the university, its people, or its property, then a Formal Complaint Process will be initiated by Human Resources. The HR Consultant will ensure the Reporter is informed that Human Resources will be moving forward with a Formal Complaint process and will invite the Reporter to participate.

If the HR Consultant, the Director of HR or designee, and the Title IX Staff determine that the information in the report does not allege sexual misconduct as defined in **Policy 1340** but alleges another form of conduct prohibited by university policy, the HR Consultant and Director of HR or designee will determine what policy and procedures apply to address the alleged incident. The HR Consultant will ensure the Reporter is informed of what policy the allegation will be addressed under and what, if any, role the Reporter may have in the procedures.

Formal Complaint Process

Human Resources will use these procedures to administer the investigation of a Formal Complaint of sexual misconduct. Refer to **Policy 1340** for information on what types of reports of alleged sexual misconduct are eligible for the filing of a Formal Complaint.

The HR Consultant who has responsibility for the Reporter and Respondent's department(s) will not be assigned to investigate formal complaints of sexual misconduct. Instead, the HR Director will assign another HR Consultant or HR employee to investigate the Formal Complaint. The role of the HR Consultant or designee who is assigned to investigate a Formal Complaint of sexual misconduct is to serve as a neutral fact finder and not to make determinations about whether or not a policy violation has occurred.

Outline of Formal Complaint Investigation

- ◆ The Reporter initiates the Formal Complaint process by signing a Formal Complaint Form. In cases where Human Resources is initiating the Formal Complaint Process, the HR Consultant who received the report will fill out and sign the Formal Complaint form.
- ◆ The Director of Human Resources or designee will appoint an investigator. The investigator will be an employee of Human Resources who was not involved in receiving the initial report or providing resources to the reporter or respondent.
- ◆ The HR Consultant will notify the Respondent and the Respondent's supervisor of the existence of the Formal Complaint. The HR Consultant will meet with the Respondent for an Initial Advising Meeting to explain the procedures that will be used to investigate the formal complaint.
- ◆ The assigned investigator will make contact with the Reporter and Respondent to schedule a time to meet with them separately to collect their statements, evidence, and the names and contact information of Incident Witnesses.
- ◆ The assigned Investigator will collect statements from Incident Witnesses. All investigative work will be conducted as quickly as possible, but may be impacted by evidence collection, witness statements, etc. as necessary to ensure a thorough investigation.

- ◆ The assigned investigator will compile all information into an Initial Investigation Report.
- ◆ The Reporter and Respondent will be provided an opportunity to review the Initial Investigation Report and submit additional evidence, statements, and additional Incident Witness contact information provided such information is submitted to the assigned Investigator within five business days after the receipt of the Initial Investigation Report.
- ◆ The assigned investigator will compile a Final Investigation Report that will consist of the Initial Investigation Report, any materials submitted by the Reporter and Respondent after their review of the Initial Investigation Report, provided such materials were submitted by the established deadlines, and any additional witness interviews or statements collected by the Investigator.
- ◆ The Reporter and Respondent will be provided an opportunity to review the Final Investigation Report and submit a Final Response, which will be added to the Final Investigation Report, provided the Final Response is submitted to the Investigator within three business days after the receipt of the Final Investigation Report.
- ◆ The Investigator will then transfer the Final Investigation Report to the Human Resources Consultant assigned to the Respondent's work unit.

If the Respondent is an Instructional Faculty Member or A&P Faculty Member with Tenure, the HR Consultant will transfer the Final Investigation Report to the Title IX Staff for Faculty who will determine next steps, including whether the case will be adjudicated through the Faculty Sexual Misconduct Accountability Process (see Academic Affairs website).

Formal Adjudication Procedures for Wage, Classified, and A&P Faculty without Tenure

- ◆ The HR Consultant will convene with the Respondent's Associate Vice President or designee to review the Final Investigation Report. The Respondent's AVP or designee will determine, based on a preponderance of the evidence if a policy violation occurred. This may involve the Respondent's AVP or designee meeting individually with the Reporter and Respondent for them to share their perspectives. In cases where an employee is found responsible, the AVP or designee over the Respondent will collaborate with the HR Consultant to determine an appropriate sanction.
- ◆ The Respondent's AVP or designee will simultaneously notify the Reporter and Respondent regarding his/her decision, which may include the rationale for the decision and any applicable appeal procedures. In cases where a Respondent is found responsible, the Respondent will receive notification of the sanction recommended by the AVP or designee, which may include the rationale for the sanction. In accordance with state law regarding privacy of personnel information, the Reporter will only be informed of any sanctions and rationale for sanctions that directly affect the Reporter.
- ◆ The Reporter and Respondent may appeal the decision of the Respondent's AVP or designee on the grounds of procedural error or new evidence that was not available at the time of the investigation. The deadline for submitting an appeal to the Vice President will be five days after the Reporter and Respondent were notified of the AVP or designee's decision. If one or both parties submit an appeal, the other party will be provided an opportunity to view the appeal and submit a response to the appeal. The deadline for submitting a response will be five days after the party received notification of the existence of the appeal.

- ◆ The VP will have 10 business days to review the Final Investigation Report, the decision of the AVP or designee, the submitted appeals and response to the appeal to make a final determination in the case. The VP will inform the Reporter and Respondent in writing of the final decision. The VP's decision will be final for cases involving Respondents who are Wage and A&P Faculty without tenure. Respondents who are classified may appeal the decision of the VP through the grievance process afforded to classified employees through DHRM.

Formal Complaint & Adjudication Procedures for Affiliates

If a complaint alleging sexual misconduct is made against an affiliate, the initial assessment and investigative process as outlined above will be followed.

- ◆ The HR Consultant will meet with the head of the affiliate's sponsoring department, along with the associated AVP to review the Final Investigation Report. The head of the department and AVP will determine, based on a preponderance of the evidence, if a policy violation occurred. This decision is final and cannot be appealed.
- ◆ An affiliate who is found in violation of **Policy 1340** may have his/her affiliate status removed under the terms of **Policy 1337 – Affiliates**.