

**Procedural Guidelines for Processing
Discrimination and Harassment Complaints
Based Upon Board Recognized Protected Status**

I. Introduction

The University of Akron believes that all students, faculty, staff and guests should be able to enjoy and work in an environment free from discrimination and harassment based on race, color, national origin, ancestry, religion, gender, pregnancy, gender identity or expression, sexual orientation, marital status, age, disability, genetic information, military status, or status as a Special Disabled or Vietnam-era veteran. The University's policies on harassment, discrimination and affirmative action can be found in Policies 3359-11-13 and 3359-38-01.¹ For the purposes of these procedures, "discrimination," "harassment," and "retaliation" have the same meanings as provided in those policies. These guidelines are not intended to change those policies but are intended to provide more information on how internal complaints made under those policies will be handled. Collective bargaining agreement provisions will be applied as appropriate.

II. Reporting Expectations and Process

We need the support of the entire University community to create an environment free of harassment, discrimination and retaliation based upon Board recognized protected status. Because of this, all members of the University community have a responsibility to report any harassment, discrimination or retaliation that they see, are involved in or reasonably believe has occurred when that behavior impacts the workplace or educational environment and regardless of whether the behavior occurred on or off campus. It is important that concerns be raised immediately to provide the best opportunity for review. If you are not certain whether your concern falls under the discrimination and harassment policies, please reach out to us. We will be happy to discuss it with you and help you determine the appropriate resource.

Complaints can be made in person, by telephone, or electronically. Written complaints are not required but can assist with reviewing the allegations and resolving the matter in a more timely manner. Anonymous complaints will be accepted, but the ability to respond to anonymous complaints may be limited. Complaints should be filed with:

EEO Office
Administrative Services Building, Room 138
(330) 972-7300, eeocompliance@uakron.edu

Filing an internal complaint with the University does not prevent you from filing a complaint with a law enforcement agency or other external agency, nor does it extend any time limits to file a complaint with those agencies.

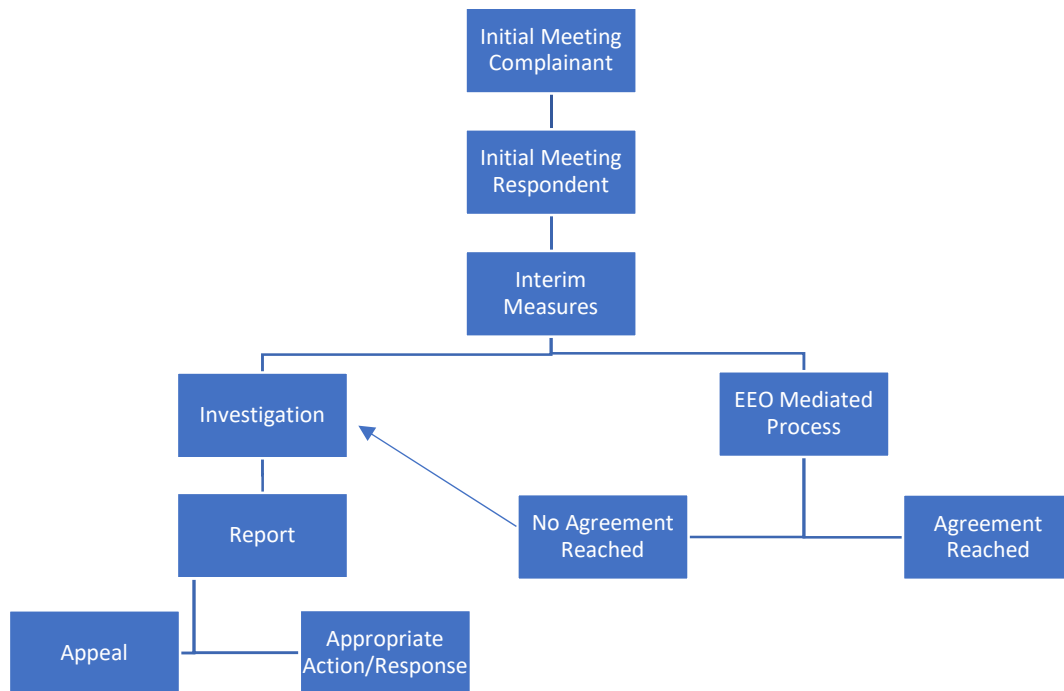
Complaints are kept confidential to the extent possible, subject to an appropriate investigation following the applicable policies, laws and due process requirements. Other University resources, such as the ADA Coordinator, Office of Accessibility, Dean of Students, Title IX Coordinator or Deputy Coordinator and the Office of General Counsel or other administrator as deemed necessary, may be

¹ University policies include categories protected under policy, state and federal law. Not all identified categories are protected under state and federal law.

consulted as part of the investigation and response depending on the nature of the allegations. Allegations of criminal misconduct, including but not limited to hate crimes or sexual assaults, will be reported to the appropriate police department.

III. Overview of Process

While all complaints will be processed as appropriate for that specific complaint, the general process is outlined below:



The individual making the allegations is referred to as a Complainant. The individual against whom the allegations are made is referred to as the Respondent. During the initial separate meetings with the Complainant and the Respondent, the EEO Office will review the allegations, the policy which addresses the behavior, the options for responding to the complaint, confidentiality provisions and anti-retaliation provisions.

The complaint may proceed through an EEO mediated process or a formal investigation. Each process is discussed further below. The EEO Office will work with the parties to determine whether interim measures are necessary to prevent discrimination or harassment from occurring while the complaint is pending or to comply with applicable laws.

IV. Informal Resolution

Employees are encouraged to bring their concerns to the attention of their supervisor or, if they feel comfortable, address them with the individual(s) engaging in the behavior. Supervisors or employees can request the assistance of the EEO Office in resolving these disputes at any time. Supervisors and

employees remain obligated to report all potential violations of Title IX and/or the University's harassment and discrimination policies to the appropriate individual(s) as outlined in the applicable rule/policy. While employees are encouraged to resolve their concerns informally, this step is not required before raising a concern to the EEO Office.

V. EEO Mediation

In an EEO mediation, no formal investigation occurs. Rather, the EEO Office meets with the individuals involved in the incident to determine any steps or actions that can be voluntarily taken to address the concerns. The EEO mediation process is not disciplinary in nature.

The EEO Office must initially determine whether the Complaint is eligible for a mediated resolution. Factors considered include:

- the severity of the allegation(s);
- the number of individuals involved;
- Title IX and Title VII legal requirements and obligations;
- whether any prior complaints have been filed;
- whether the alleged harm is easily reparable; and
- any other factors appropriate under University policy.

Complaints involving criminal matters or sexual violence are not eligible for an informal resolution.

If a Complaint is eligible for an informal resolution, the EEO Office or its designee will meet separately with the Complainant and Respondent to review the mediated process. If all individuals involved do not agree to use the informal process, the matter will proceed as a formal investigation.

The mediated process can include a facilitated conversation between the parties to assist them in resolving the issue, a mediation where the EEO Office acts as a go-between for the individuals and attempts to work out a resolution, a referral to University services that may address the underlying issue(s), or other actions that may be appropriate for the specific complaint. The goal of the mediated process is for the individuals to reach an outcome upon which they both agree and that will address the underlying issue. This is an opportunity for them to guide the potential outcome and work towards a professional working relationship.

If anything beyond a verbal discussion is agreed upon, the agreement will be placed in writing and signed by all individuals involved. Agreements may need to be reviewed and approved by the appropriate supervisors and/or bargaining unit representatives. A copy of the agreement will be kept by the EEO Office.

If the concern is not resolved within a reasonable time, the EEO Office will begin a formal investigation to resolve the complaint. The EEO Office will notify the Complainant and the Respondent in writing if the EEO mediated process has been unsuccessful and a formal investigation will begin.

VI. Formal Investigation

A formal investigation involves a formal verbal or written complaint of harassment, discrimination or retaliation. Formal investigations will generally proceed as follows:

- Interview the reporting party;
- Interview the individual who is the alleged subject of the discrimination, harassment or retaliation, if different than the reporting party;
- Notice to the Respondent of the charge;
- Interview witnesses;
- Interview the Respondent;
- Interview any additional witnesses, as appropriate;
- Gather and review relevant documents or evidence; and
- Issue a report.

The investigation process is a neutral process designed to review the allegations and gather facts. The investigator is not an advocate for either the Complainant or the Respondent, though the investigator can make referrals to support resources as needed by either party.

A. Notice of Investigation

The EEO Office will send a written acknowledgement of the complaint to the Complainant.

At the appropriate point in the investigation, the investigator will take reasonable steps to inform the Respondent of the allegations against him/her, the basis of the allegations and provide an opportunity to respond to those allegations. The Respondent will be given the opportunity to review evidence provided to the investigator, including the written complaint (if received).

B. Interviews and Witnesses

Both the Complainant and the Respondent may identify potential witnesses. Witnesses should have personal knowledge of the alleged harassment, discrimination or retaliation. Character witnesses generally will not be interviewed. The investigator will use discretion in determining what interviews are conducted. All individuals participating in the investigation may provide copies of documents or other information that they believe will assist the investigator in understanding what occurred.

Witnesses will receive a written request to schedule an interview. Interviews will be conducted at a reasonable hour, preferably during the employee's normal working hours. Written statements may be submitted at, following or in lieu of an in-person interview.

All employees are expected to participate in the investigation. An investigation will proceed regardless of an employee's refusal to participate and appropriate findings will be made based on the information available. As the goal of the investigation is to determine what occurred, the best way to help is to provide any information you have regarding the underlying events.

C. Attendance of a Support Person, Advisor or Legal Representative

A support person, advisor or legal representative may accompany an individual to an interview. This person may not actively participate in the interview by asking questions or suggesting answers and will not be provided with copies of documents during or after the interview. The investigator may end the interview if the support person, advisor or legal representative is being disruptive or obstructing the interview. At least 48 hours' notice should be given to the investigator if a support person, advisor or

legal representative will attend the interview. Interviews may not be recorded without the permission of the investigator.

University employees represented by a recognized collective bargaining organization may have a union representative with them at an interview. Union representatives will have the rights provided here or any additional rights granted to them under the applicable collective bargaining agreement.

All individuals participating in the investigation are requested to use discretion with respect to the investigatory process and any allegations of which they become aware.

D. Completion of Investigation

The EEO Office will make every effort to complete investigations within sixty (60) calendar days from either the receipt of the complaint or the end of the EEO mediated process, whichever is later. At the end of the investigation, the investigator will prepare a written report summarizing the investigation. All parties and witnesses will have the opportunity to review the summary of their interview before the report is finalized. Additionally, both the complainant and respondent will have the opportunity to review all evidence submitted, including all witness summaries, and propose additional questions or provide a written response. Once the review process is complete, the investigator will determine whether it is more likely than not that the Respondent violated the applicable policy when reviewing the events as a whole and in the context in which they occurred. Respondents are not presumed to have engaged in conduct which violates University policy.

Policy violations will be referred to Labor Relations and/or other appropriate individuals for corrective action. Corrective action can include an educational conference, training and/or disciplinary action up to and including termination. Corrective action will be imposed by following applicable disciplinary policies and/or collective bargaining provisions. Corrective action can also be taken if the Respondent is determined not to have violated the University's policies on discrimination, harassment or retaliation, but where the underlying conduct shows inappropriate workplace behavior. A copy of the report will be provided to the Complainant, the Respondent and the appropriate supervisory official(s).

E. Appeals

Either party may appeal the investigator's findings to the Associate Vice President for Human Resources within five (5) business days from the date of the findings. Appeals must be filed in writing and will be reviewed using an abuse of discretion standard. Under this standard, the Associate Vice President for Human Resources does not substitute their judgment for that of the investigator, but rather looks to whether the investigator exercised sound and reasonable decision making or acted unreasonably. Any recommended corrective action will be delayed during the appeal. Appeals may be filed for the following reasons:

- Misapplication or misinterpretation of the rule/policy alleged to have been violated;
- Violation of procedural requirements set forth in the rule/policy that may have affected the outcome of the investigation;
- Whether there is a reasonable basis to support the investigator's findings that a violation of the rule/policy was established by a preponderance of the evidence; or

- To consider new evidence that was unavailable to the individual at the time of the investigation and which is sufficient to change the decision.

The Complainant, the Respondent and the EEO Office will be notified of the outcome of the appeal.

VII. Retaliation

University policy as well as state and federal law prohibit retaliation against individuals for making a complaint of harassment or discrimination, for assisting an individual in making a complaint, or for participating in an investigation to evaluate a complaint. Retaliation can include:

- Taking negative employment action against an individual;
- Taking actions that substantially interfere with or have a chilling effect on the individual's ability to participate in and benefit from the educational or work environment;
- Failing to provide instruction or assistance that would otherwise be provided;
- Failing to fairly and/or objectively evaluate the employee's or student's performance;
- Failing to record an appropriately earned grade for a student; or
- Otherwise sabotaging an employee's or student's performance or evaluation.

Retaliation in any form will not be tolerated and can subject the offender to discipline up to and including termination of employment. Retaliation complaints will be investigated as a separate policy violation. Any individual who believes that they have been subjected to retaliation for making a complaint or participating in an investigation should promptly notify the EEO Office.

VIII. Recordkeeping

The EEO Office will maintain a record of all complaints received, investigatory materials, reports and the outcome of any informal process, investigation or appeal in accordance with the University's Records Retention Schedule. Information gathered during the investigation may be disclosed in accordance with applicable laws and regulations to outside agencies having jurisdiction over either the University or complaints of harassment, discrimination or retaliation.

IX. For Additional Information, Please Contact:

EEO Office
Administrative Services Building, Room 138
(330) 972-7300, eeocompliance@uakron.edu