

Office of Investigation & Resolution (OIR)

SECTION 1 INTRODUCTION

1.1 Mission Statement

The Office of Investigation and Resolution (OIR) is a central unit of the University of Tennessee, Knoxville (UTK) that investigates and resolves reports of university policy violations in an impartial, thorough, and prompt manner to foster a productive and professional environment for learning and working. Resolution of concerns also facilitates compliance with applicable federal and state laws and university policies and promotes equal opportunity and non-discrimination within the university's workplace and educational programs and activities.

1.2 Scope

OIR investigates reports of violations of the following policies:

- [HR0220](#) – Equal Employment Opportunity;
- [HR0280](#) – Sexual Harassment & Other Discriminatory Harassment;
- The [Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking](#)¹;
- [HR0585](#) – Mandatory Reporting;
- [Section 2.2.6](#) of the Faculty Handbook (Relationships with Students); and
- Other university rules, policies, or procedures, in consultation with the Chief Human Resources Officer and/or the Vice Provost for Faculty Affairs, or at the request of the Chief Campus Compliance Officer.

OIR investigates reports of violations of the above-referenced policies when the Respondent is affiliated with UTK (including the Institute of Agriculture and UT Space Institute), the UT System Administration, or the UT Institute for Public Service, and the Respondent is subject to the university policy at issue.

SECTION 2 DEFINITIONS

2.1 Complainant

“Complainant” means a person who is alleged to have experienced conduct prohibited by a Covered Policy, regardless of whether that person makes a Complaint.

2.2 Complaint

“Complaint” means notification to OIR by a Complainant alleging that the Complainant has experienced conduct prohibited by a Covered Policy. If any of the allegations of a Complaint fall

¹ Allegations of potential violations of the Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking are investigated and adjudicated according to the [Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking](#).

under the university's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking, then OIR consults the Office of Title IX to ensure compliance with that policy's requirement for the Title IX Coordinator (or designee) to promptly inform a Complainant of their rights, resources, and reporting options.

[2.3 Covered Policy](#)

"Covered Policy" means a policy within the scope of OIR, as described in Section 1.2.

[2.4 Due Diligence Inquiry](#)

"Due Diligence Inquiry" means the process described in Section 3.2.2 through which OIR seeks additional and/or clarifying information sufficient to determine the process through which a Complaint/Report should be resolved.

[2.5 Evidence](#)

"Evidence" means an item or information offered to prove that a fact is more or less probable than it would be without its existence. Evidence includes oral or written statements, documents, photographs, videos, audio or voice recordings, records, and other tangible objects.

[2.6 Investigation](#)

"Investigation" means the process described in Section 3.3 through which OIR evaluates whether it is more likely than not that the Respondent violated a Covered Policy.

[2.7 Notification \(to OIR\)](#)

"Notification" means an oral or written communication of a Complaint or a Report to an employee of OIR.

[2.8 Parties](#)

"Parties" means the Complainant(s) and the Respondent(s).

[2.9 Preponderance of the Evidence](#)

"Preponderance of the Evidence" means evidence demonstrating that it is more likely than not that a violation of a Covered Policy occurred.

[2.10 Relevant Evidence](#)

"Relevant Evidence" means Evidence that has (i) any tendency to make a fact more or less probable than it would be without its existence, and (ii) the fact is of consequence in determining if a violation of a Covered Policy occurred. In most cases, evidence of a person's character or a character trait is not relevant for purposes of determining whether a violation of a Covered Policy occurred.

[2.11 Report](#)

"Report" means notification to OIR by a Reporter alleging that a Complainant has experienced, or a Respondent has engaged in, conduct prohibited by a Covered Policy. If any of the allegations of a Report fall under the university's Policy on Sexual Harassment, Sexual Assault, Dating and

Domestic Violence, and Stalking, then OIR consults the Office of Title IX to ensure compliance with that policy's requirement for the Title IX Coordinator (or designee) to promptly inform a Complainant of their rights, resources, and reporting options.

2.12 Reporter

"Reporter" means a person, other than a Complainant, who provides information to OIR that another person may have engaged in or experienced conduct prohibited by a Covered Policy.

2.13 Respondent

"Respondent" means a person and/or organization alleged to have engaged in conduct prohibited by a Covered Policy.

2.14 Retaliation

"Retaliation" means an adverse action by any University employee, taken against any Complainant, Respondent, Witness, or any other participant. Adverse action may mean intimidation, threatened action, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Covered Policies. The prohibitions against Retaliation apply whether or not the original complaint is substantiated.

2.15 Witness

"Witness" means a person who may have observed or possess knowledge of an alleged violation of a Covered Policy.

SECTION 3 PROCESS and RESOLUTION

3.1 Making a Complaint or Report

3.1.1 How to Make a Complaint or Report

Any person may make a Complaint or a Report to OIR in person, by telephone, by mail, by electronic mail, or through the [OIR online reporting form](#).

3.1.2 When to Make a Complaint or Report

A person must file a Complaint or Report within 300 calendar days of the most recent act that is alleged to have violated a Covered Policy. OIR may extend the 300-day filing deadline, including situations in which the most recent alleged act may have a continuing impact or effect on the university's education programs, activities, and/or employment settings.

3.1.3 Acknowledgement

Notification to OIR is documented as the date OIR received the Complaint or Report. Within five (5) business days after OIR's receipt of a Complaint or Report, excluding university holidays and closures, OIR will send the Complainant or Reporter a brief acknowledgment of receipt of the Complaint or Report.

3.2 Intake Review

3.2.1 Purpose of the Intake Review

OIR will conduct an Intake Review of all Complaints and Reports. The purposes of the Intake Review are to: (1) assess whether a Complaint or Report describes in sufficient detail the conduct that is the basis of the Complaint or Report, and whether the alleged conduct, if proven by a Preponderance of the Evidence, would violate a Covered Policy; and (2) determine the process through which a Complaint or Report should be resolved.

3.2.2 Due Diligence Inquiry

During the Intake Review, OIR may conduct a Due Diligence Inquiry to seek additional or clarifying information sufficient to determine the process through which a Complaint or Report should be resolved. Examples of situations in which OIR may conduct a Due Diligence Inquiry include when a Complaint or Report contains information that may be a violation of a Covered Policy but lacks a participating Complainant or Reporter, or when a Complaint or Report lacks sufficient detail to provide meaningful notice to a Respondent. In a Due Diligence Inquiry, OIR may engage in information gathering; contact and/or interview the Complainant, Respondent(s), and/or potential Witnesses; gather, request, and/or review records, including university records of past conduct or related incidents. A Due Diligence Inquiry does not require notice to the Respondent unless Investigation is identified as the process through which OIR will resolve a Complaint or Report. A Due Diligence Inquiry is not an Investigation.

3.2.3 Outcome of the Intake Review

Following an Intake Review (including a Due Diligence Inquiry, if appropriate), OIR will do one of the following:

- (1) **Close the Complaint or Report**. OIR may close the Complaint or Report when: (i) the allegations, if proven, would not constitute a violation of a Covered Policy; (ii) the allegations lack sufficient detail upon which to base a decision about how to resolve the Complaint/Report; (iii) the Respondent is not affiliated with the university or subject to a Covered Policy; (iv) the Reporter or Complainant is unknown or unresponsive; (v) a Title IX Formal Complaint is dismissed; (vi) the allegations fall outside of the 300-day filing window (Section 3.1.2); (vii) the allegations were the subject of a previous Alternative Resolution or Investigation and no new information has been presented to OIR; (viii) OIR concludes that the Complaint or Report is completely resolved by Referral (see paragraph (2) below) to another university unit; or as otherwise deemed appropriate by the Executive Director of OIR.
- (2) **Refer the Complaint or Report**. OIR may refer the Complaint or Report (or any portion thereof) to another university unit when the Complaint or Report: (i) does not involve an allegation of misconduct that falls under a Covered Policy but the allegations may warrant investigation, consideration, or other action by another university unit; or (ii) alleges misconduct by a person who is a university student (in which case the Complaint or Report will be referred to the Office of Student Conduct and Community Standards).

(3) ***Investigate*** the Complaint or Report. OIR may initiate an Investigation with notice to the Complainant and the Respondent when the Complaint or Report alleges conduct that, if established by a Preponderance of the Evidence, would violate a Covered Policy. OIR may initiate an Investigation, with or without a participating Complainant, when an Investigation is required by law or university policy or is necessary based on the university's commitment to fostering a safe and non-discriminatory living, learning, and working environment. When evaluating whether to initiate an Investigation, OIR will consider a range of factors, including (without limitation):

- Any risk of additional or ongoing violations of university policy;
- Any indication of a pattern or history of noncompliance with university policy;
- Any threat of further noncompliance with university policy;
- The nature and scope of the alleged violation(s) of university policy;
- Any indication of a health and/or safety risk to a Complainant or other campus community member (e.g., staff, student, faculty member, affiliate);
- Whether OIR can pursue an Investigation without the participation of the Complainant (e.g., whether there are other available means of obtaining relevant evidence);
- Whether the allegations indicate a continuing effect on the university's education programs, activities, and/or employment settings if not addressed; and/or
- The university's commitment to fostering a safe and non-discriminatory campus environment.

If OIR determines that a Complaint or Report should be Closed or Referred, OIR will send a memorandum to the Complainant and Respondent (if interviewed during the Intake Review and/or otherwise notified by OIR) that includes a concise summary of both the Relevant Evidence and the rationale for OIR's determination. Complaints and Reports closed prior to Investigation may be re-opened if additional information is later available and the matter still falls within the 300 calendar day limitations period.

3.2.4 Appeal of OIR's Determination Following the Intake Review

If OIR determines that it will Close or Refer the Complaint or Report (in whole or in part), a Party may appeal such Closure or Referral to the university's Chief Campus Compliance Officer within five (5) business days of OIR's issuance of the notice of its determination. Any appeal must be in writing and describe in sufficient detail the grounds for the appeal. Grounds for appealing an OIR determination include *only*: (i) procedural irregularity that affected the outcome; (ii) new Relevant Evidence not available at the time of the Intake Review; and/or (iii) evidence of conflict of interest or bias by a member of the OIR staff.

Appeals must be submitted in writing to the Chief Campus Compliance Officer. The Chief Campus Compliance Officer will respond within ten (10) business days but, for good cause explained in writing, may extend the time for deciding the appeal. If the Chief Campus Compliance Officer upholds OIR's determination, then the decision is final, and there is no further appeal. If the Chief

Campus Compliance Officer overturns OIR's determination, then the Chief Campus Compliance Officer will refer the Complaint or Report back to OIR with appropriate instruction.

3.2.5 Alternative Resolution

At any time during the Intake Review, OIR may propose an Alternative Resolution (Section 3.5 of these procedures).

3.2.6 Interim Measures

The Executive Director of OIR may implement interim measures at any time after OIR's receipt of a Complaint or Report. For purposes of this Section 3.2.6, interim measures are non-disciplinary actions designed to: (i) restore or preserve access to a non-discriminatory living, learning, and working environment; (ii) promote safety; and/or (iii) deter violations of university policy. Examples of interim measures include, but are not limited to, issuing no contact directives, coordinating changes to an employee's work assignment or schedule, and/or assisting a student in requesting changes to an academic schedule or campus employment assignment.

3.3 Investigations

3.3.1 Purpose of an Investigation

The purpose of an Investigation is to determine whether a Respondent engaged in conduct prohibited by a Covered Policy. OIR will use the Preponderance of the Evidence standard to determine whether a Respondent engaged in conduct prohibited by a Covered Policy.

3.3.2 Notice of Investigation

OIR initiates an Investigation by sending a written Notice of Investigation (NOI) to the Complainant and the Respondent.

The NOI will include, at a minimum:

1. A short description of the allegation(s) OIR will be investigating;
2. A statement advising the Parties that Retaliation is prohibited and that engaging in Retaliation will result in appropriate disciplinary action;
3. Information regarding resources available to the Parties;
4. An invitation to submit to OIR the name(s) and contact information for possible Witnesses (along with a summary of the information each Witness can provide regarding the allegations) and copies of any supporting documentation (e.g., emails, text messages);
5. Contact information for the OIR investigator assigned as the lead investigator.

3.3.3 Notice of Meetings

OIR will notify Parties and Witnesses of the date, time, location, and purpose of any meeting.

3.3.4 Interviews

OIR may interview the Complainant, the Respondent, and any possible Witnesses that OIR believes are reasonably likely to have Relevant Evidence related to the Complaint or Report.

3.3.5 Other Evidence

OIR may request that the Complainant, the Respondent, other persons, a university unit, and non-university entities provide Evidence in their care, custody, or control.

3.3.6 Review of Statements and Other Evidence

Complainants and Respondents will be provided an opportunity to review their own statement and other Relevant Evidence in which they were the original participant (e.g., email and text communications, audio or video recordings). After reviewing their own statement and other Relevant Evidence, a Participant may provide a written statement regarding the Relevant Evidence prior to the issuance of the Investigation Report. This written statement may include clarifications, other potentially Relevant Evidence not yet submitted to OIR for review, or new information recently obtained. Any written statement must be submitted in writing to OIR within five (5) business days of the day OIR provided the Relevant Evidence for review. OIR will consider all written responses submitted in compliance with this Section prior to issuing the Investigative Report.

3.3.7 Investigation Report and Referral

At the completion of the Investigation process, OIR will prepare an Investigation Report. The Investigation Report will include a summary of the allegations, OIR's findings, an analysis of the Relevant Evidence supporting OIR's findings, and guidance regarding appeal rights.

OIR will follow the following steps in preparing and issuing the Investigation Report:

1. OIR will provide a draft of the Investigation Report and access to Relevant Evidence to the appropriate administrator (i.e., vice chancellor or dean). OIR will offer the appropriate administrator an opportunity to consult with OIR before the Investigation Report is finalized regarding the investigation process, Evidence collected, and the rationale for OIR's determination of whether a violation of a Covered Policy occurred.
2. OIR will provide the final Investigation Report and access to the Relevant Evidence to: (i) the Parties; (ii) the appropriate vice chancellor or dean; and (iii) the Vice Provost for Faculty Affairs (for cases in which the Respondent is a faculty member) or the Chief Human Resources Officer (for cases in which the Respondent is a staff member).

3.3.8 Appeal of the Investigation Finding

Parties may appeal the finding(s) of an Investigation to the Chief Campus Compliance Officer within ten (10) business days of OIR transmitting the Investigation Report to the Parties. The appeal must be in writing and describe in sufficient detail the grounds for the appeal. Grounds for appealing an investigative finding include *only*: (i) procedural irregularity that affected OIR's finding(s); (ii) new Relevant Evidence not available prior to the issuance of the Investigation Report; and/or (iii) conflict of interest or bias by a member of the OIR staff.

Appeals must be submitted in writing to the Chief Campus Compliance Officer. The Chief Campus Compliance Officer will respond within ten (10) business days but, for good cause explained in

writing, may extend the time for deciding the appeal. If the Chief Campus Compliance Officer upholds OIR's determination, then the decision is final, and there is no further appeal. If the Chief Campus Compliance Officer overturns OIR's determination, then the Chief Campus Compliance Officer will refer the Complaint or Report back to OIR with appropriate instruction.

3.3.9 Disciplinary Action

Disciplinary actions relating to violations of a Covered Policy are determined by the appropriate vice chancellor or dean. The appropriate vice chancellor or dean must inform the Respondent and OIR in writing of the disciplinary actions that will be imposed in response to the findings of OIR. Disciplinary actions will be implemented in accordance with relevant university rules, policies, or procedures (e.g., Faculty Handbook, HR 0525).

3.3.10 Conflicts of Interest

The Investigation process will be carried out in a manner that is free from conflicts of interest or bias. A Complaint or Report will be assigned to another member of OIR staff when: (1) the OIR staff member or their relative is a Complainant, Respondent, or a Witness; or (2) the OIR staff member determines, for any reason (e.g., personal prejudice or bias) that they cannot be fair or impartial. The Chief Campus Compliance Officer will address conflicts of interest in the Investigation process in consultation with the Office of the General Counsel.

3.3.11 Alternative Resolution

At any time during the Investigation, OIR may propose an Alternative Resolution (Section 3.4 of these procedures).

3.4 Alternative Resolution

3.4.1 Application

An Alternative Resolution resolves a Complaint or Report through means other than Closure, Referral, or Investigation. Before or during an Investigation, and with or without the initiation of the Complainant or the Respondent, OIR may determine at its discretion whether an Alternative Resolution may be appropriate given the content or context of the Report or Complaint or other facts or circumstances. Before proposing an Alternative Resolution, OIR staff will consult with the Executive Director of OIR to determine whether an Alternative Resolution would be appropriate based on the facts and circumstances of the case, and, if so, what type(s) of Alternative Resolution to consider. OIR may impose a stay of Investigation, including all deadlines, as OIR and/or the Parties consider or pursue the Alternative Resolution process.

3.4.2 Examples of Alternative Resolution

Processes that may be proposed by OIR to reach an Alternative Resolution include but are not limited to educational meeting(s), mediation, administrative actions, facilitated dialogue, conflict coaching, and restorative practices. The university will document any Alternative Resolution, and OIR will retain the documentation.

[3.4.3 Voluntary](#)

The process of trying to reach an Alternative Resolution is voluntary (i.e., neither the Respondent nor a Complainant is required to participate). At any time during an Alternative Resolution process, either the Complainant or the Respondent may request that the process end and that OIR resolve the Complaint or Report through one of the other resolution methods outlined in these procedures.

[3.4.4 Alternative Resolution Agreement](#)

An Alternative Resolution Agreement shall in all cases be signed by the Executive Director of OIR and the Respondent, and shall include a waiver of the Respondent's right, if any, to resolve the allegations through an Investigation, informal or formal hearing process, or other grievance process provided under university policy.

Prior to the execution of an Alternative Resolution Agreement, if a Complainant has not participated with OIR in the discussion of an Alternative Resolution, then OIR will provide the Complainant with an opportunity to provide a timely objection to the proposed Alternative Resolution.

In appropriate cases, OIR may request that the Complainant sign an Alternative Resolution Agreement and determine that the Alternative Resolution Agreement is not effective without the Complainant's signature. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement. If an Alternative Resolution Agreement is not reached, then the Complaint or Report will be resolved through one of the other resolution methods outlined in these procedures.

[SECTION 4](#) [ADDITIONAL AND RELATED INFORMATION](#)

[4.1 Effect on Other University Processes](#)

If a Party is participating in a concurrent university process during an Intake Review or Investigation, including (without limitation) a tenure and promotion process, a grade appeal process, a student conduct disciplinary process, or an employee disciplinary process, OIR's Executive Director will consult with the Vice Provost for Faculty Affairs (for cases involving a faculty member or academic-related appeal), the Chief Human Resources Officer (for cases involving a staff member), or the Director of Student Conduct & Community Standards (for disciplinary cases involving a student) to determine the appropriate order or timing of such processes. OIR may stay the OIR processes outlined in Section 3, if appropriate, until the conclusion of a separate university process.

[4.2 Relationship of Complaint Process to Outside Agency Time Limits](#)

The filing of a Complaint does not excuse a Party from meeting deadlines set by the university, law, or an outside administrative agency.

4.3 Modification of Procedures

OIR may extend the time frames referenced in these procedures at its discretion. Additionally, the Chief Campus Compliance Officer may suspend or modify the processes outlined in Section 3 when, in the Chief Campus Compliance Officer's judgment, an emergency or other unforeseen condition requires such modification to ensure the orderly functioning of the university and/or to safeguard the basic rights of the Parties. OIR will provide written notice of any such modifications to the Parties, including the bases for the modifications, should they occur.

4.4 Documentation

OIR will maintain documents related to Complaints and Reports as required by law or policy.

4.5 Distinction between Privacy and Confidentiality

For clarity, OIR privacy should be distinguished from confidentiality.

4.5.1 Confidentiality

OIR is not a "confidential resource" as defined in university policy. If a Complainant or Reporter desires to communicate with someone who, by law or by university policy, can keep information confidential, then the Complainant should access the list of confidential resources outlined at oir.utk.edu.

4.5.1 Privacy

Information communicated to OIR will be kept as private as possible as OIR completes the Intake Review process. This means that the information will be shared only with the university employees whom OIR determines need to be involved in responding to the information unless disclosure is otherwise permitted or required by law. OIR will keep Complaints and Reports, and all subsequent documentation, correspondence, interview notes, and other information obtained during the Intake Review, Due Diligence Inquiry, Investigation, or Alternative Resolution processes private to the extent possible while resolving the Complaint or Report. OIR may, at its discretion, and in order to protect the integrity of an Investigation or other OIR process, instruct Parties and Witnesses not to disclose private information learned through engagement with OIR.