

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: General Administration

NUMBER: 01.D.07

AREA: Legal Affairs

SUBJECT: Anti-Discrimination Policy

1. PURPOSE

- 1.1. The University of Houston System and its universities (“University”) are committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and harassment of any kind. Discrimination and harassment are antithetical to the standards and ideals of the University. The University will take appropriate action in an effort to eliminate discrimination and harassment from occurring, prevent its recurrence and address its effects.
- 1.2. This Anti-Discrimination Policy (“Policy”) defines and describes prohibited discrimination and harassment and establishes a mechanism for processing complaints of unlawful discrimination and harassment against University faculty, staff, students and visitors. This Policy does not address allegations of sexual misconduct, which includes sexual harassment. (Please see the University’s Sexual Misconduct Policy, [SAM 01.D.08](#), which defines and describes prohibited Sexual Misconduct and establishes a mechanism for processing complaints of Sexual Misconduct.) Nothing in this Policy shall be construed to limit the rights of University students or employees to seek remedies available to them outside of the University’s internal processes.
- 1.3. All Members of the University Community are expected to adhere to this Policy, to cooperate with the procedures for responding to complaints of unlawful discrimination and harassment, and to report conduct or behavior that they believe to be in violation of this Policy to their university’s Equal Opportunity Coordinator. The Equal Opportunity Coordinator will coordinate the investigation and response as necessary with the appropriate individuals from the applicable campus. The University will take allegations of unlawful discrimination and harassment seriously and will work to ensure that all persons are given appropriate support and fair treatment.
- 1.4. This Policy provides the University’s exclusive mechanism for handling the investigation of any alleged unlawful discrimination or harassment, the determination of whether this Policy was violated, and the appeal of Equal Opportunity Services’ (EOS’) finding(s) as to violation/no violation of this Policy.

2. GENERAL DEFINITIONS

- 2.1. Complainant – A party or entity (in the case of the University) who formalizes a complaint of discrimination or harassment under Section 10.3 of this Policy.
- 2.2. Discrimination – Treating an individual or members of a Protected Class less favorably because of their membership in that class or having a policy or practice that has a disproportionately adverse impact on Protected Class members.
- 2.3. Equal Opportunity Coordinator – The person who is designated to coordinate efforts to comply with and implement this Policy. The Equal Opportunity Coordinator is responsible for conducting the administrative investigation of reports of discrimination or harassment and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Equal Opportunity Coordinator may designate one or more Assistant Equal Opportunity Coordinators.

The Equal Opportunity Coordinators for each university are:

- University of Houston System/University of Houston
Office of Equal Opportunity Services
eos@uh.edu
713-743-8835
- University of Houston – Downtown
Faculty and Staff - Employment Services and Operations (ESO)
713-221-8060

Students - Student Affairs
713-221-8056
- University of Houston – Clear Lake
Human Resources
281-283-2160
- University of Houston – Victoria
Office of Equal Opportunity Services
(361) 570-4835

In the event that there is a conflict of interest for a university's Equal Opportunity Coordinator, the UH System Equal Opportunity Coordinator will appoint another university's Equal Opportunity Coordinator to serve in their place. If there is a conflict for the System Equal Opportunity Coordinator, the Vice Chancellor for Legal Affairs will appoint another university's Equal Opportunity Coordinator to serve in their place.

- 2.4. Harassment – Subjecting an individual on the basis of her or his membership in a Protected Class to unlawful severe, pervasive, or persistent treatment that constitutes:

- Humiliating, abusive, or threatening conduct or behavior that denigrates or shows hostility or aversion toward an individual or group;
- An intimidating, hostile or abusive learning, living or working environment, or an environment that alters the conditions of learning, living or working; or
- An unreasonable interference with an individual’s academic or work performance.

Examples that could satisfy this legal standard include, but are not limited to: epithets or slurs, negative stereotyping, threatening, intimidating or hostile acts, denigrating jokes and display or circulation (including through e-mail) of written or graphic material in the learning, living, or working environment.

2.5. Member of the University Community – Members of the University Community include:

- University faculty, staff, administrators, employees, and contractors;
- University students;
- Volunteers and participants in any University program or activity; and
- Guests and visitors to campus, to any property owned or leased by the University, or to any property owned or leased by any University-Affiliated organization or group.

2.6. Pregnant and Parenting Students – A Student as defined in Section 2.9 who is pregnant or was pregnant, a birth parent, or an adoptive or foster parent. See also Section 5 below.

For guidance on pregnant and parenting students’ rights, please see:

<http://www.thepregnantscholar.org/wp-content/uploads/Model-Policy-on-Pregnancy-and-Parenting-Printable.pdf>,

<https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>, and

<https://nwlc.org/resources/pregnant-and-parenting-students-rights-faqs-college-and-graduate-students/> .

2.7. Protected Class – A class of persons who are protected under applicable federal or state laws against discrimination and harassment on the basis of race, color, sex (including pregnancy), genetic information, religion, age, national origin, disability, veteran status, sexual orientation, gender identity or status, gender expression, or any other legally protected status.

2.8. Respondent – A party or person who is designated to respond to a complaint. Generally the Respondent would be the person alleged to be responsible for the prohibited discrimination or harassment alleged in the complaint. The term

“Respondent” may also be used to designate persons with administrative responsibility for procedures and policies in those areas covered in a complaint.

- 2.9. Student – A person who; (a) is currently enrolled at the University; (b) is accepted for admission or readmission to the University; (c) has been enrolled at the University in a prior semester or summer term and is eligible to continue enrollment in the semester or summer term that immediately follows; (d) is attending an educational program sponsored by the University while that person is on campus; or (e) has engaged in prohibited conduct at a time when he/she met the criteria of (a), (b), (c), or (d).
- 2.10. University-Affiliated Activity – Any activity on or off campus that is initiated, aided, authorized or supervised by the University or by an officially-recognized organization of the University.
- 2.11. University Premises - Buildings or grounds owned, leased, operated, controlled or supervised by the University.

3. JURISDICTION

The University has jurisdiction over, and will respond to, allegations of harassment or discrimination occurring on the University’s premises, at University-Affiliated Activities, and/or where both the accused person and alleged victim are either a student, faculty member, or staff member. Other than the University Policy Department which may conduct a criminal investigation as appropriate, the University does not have jurisdiction over allegations between visitors or non-affiliated persons under this Policy.

- 3.1. The University has the discretion to investigate conduct occurring off University premises or at a non-University-Affiliated Activity if either the Complainant or Respondent is University-Affiliated.
- 3.2. The process outlined in this Policy is separate from any criminal proceeding related to the reported behavior and may occur while criminal proceedings are ongoing.
- 3.3. Proceedings under this Policy will not be dismissed or delayed because criminal prosecution is pending, criminal charges have been dismissed, or the criminal charges have been reduced.
- 3.4. Proceedings may also continue if a party is no longer employed with or a student of the University.
- 3.5. Academic Freedom and Freedom of Expression

The University is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. Academic freedom and freedom of expression shall be strongly considered in investigating complaints and reports of discrimination or

harassment, but academic freedom and freedom of expression will not excuse behavior that constitutes a violation of the law or this Policy.

4. REPORTING

4.1. Reporting Responsibility

- A. All employees, students, and third parties are encouraged to take reasonable and necessary action to prevent unlawful discrimination and harassment and to report the conduct to the Equal Opportunity Coordinator and/or an Assistant Equal Opportunity Coordinator.

- B. Employees in a supervisory capacity have a duty to act to not only prevent unlawful discrimination and harassment, but to also report the conduct and behavior to the Equal Opportunity Coordinator and/or an Assistant Equal Opportunity Coordinator for advice and assistance. A supervisor who fails to act may be found to have violated this Policy, even if the underlying event does not constitute unlawful discrimination and harassment.

- C. All supervisors who receive a report of discrimination or harassment must share that information with the Equal Opportunity Coordinator and/or an Assistant Equal Opportunity Coordinator and cannot maintain confidentiality, with the exception of:
 - 1. The staff of a counseling or health center acting in their capacity as a counseling or health provider, and
 - 2. Individuals who are associated with the University in the role of a pastoral counselor or confidential advisor acting in that capacity.

- D. In addition, some individuals who are not supervisors who must share reports of discrimination or harassment with the Equal Opportunity Coordinator and/or an Assistant Coordinator, include, but are not limited to:
 - 1. Academic Advisors
 - 2. Residence Advisors
 - 3. Elected members of Student Government Associations, and
 - 4. Individuals, including students, serving as supervisors, even if they are volunteers, at a University-Affiliated activity. These individuals could be teaching, graduate assistants, research assistants, chaperones, peer mentors, or retreat counselors.

These individuals are required to report because they are either in a position to do something about the alleged actions, may be perceived to be able to do something about the alleged action, or would otherwise have to report known or suspected incidents of discrimination or harassment.

- E. Anyone who is required to report known or suspected violations of this Policy must promptly contact the Equal Opportunity Coordinator and/or an Assistant Coordinator and disclose what they know about the alleged incident.
- F. Individuals who are not required to report and who are not bound by state confidentiality laws are still encouraged to report known or suspected violations of this Policy and may do so through the confidential and non-confidential methods listed in Section 4.2 of this Policy.

4.2. Anonymous Reporting

- A. Alleged victims and others not required to report may submit a report through a web-based reporting system called Fraud and Non-Compliance Hotline, which allows the option of anonymity.
- B. The web address for the Fraud and Non-Compliance Hotline is <https://app.convercent.com/en-us/LandingPage/b3d1c670-e06c-e711-80cf-000d3ab0d899>.
- C. Reports received through this site will be reviewed and may be investigated.
- D. The University will work with anyone who is identified via a Fraud and Non-Compliance report or subsequent investigation to provide anonymity to the full extent possible under this Policy.
- E. Upon receipt of an anonymous report that implicates this Policy, the Equal Opportunity Coordinator will invite the reporter to formalize the report into a formal complaint. While interim measures and actions are available to anonymous reporters without filing a formal complaint, EOS finding(s) as described in Section 10.8 require a formal complaint.
 - 1. After formalizing the anonymous report into a formal complaint, the complaint process will follow Section 10.3, "Formalizing the Complaint."
 - 2. If the anonymous reporter declines to pursue a formal complaint, the Equal Opportunity Coordinator may pursue a complaint on behalf of the University after considering the factors explained in Section 10.2.

3. Individuals who pursue an anonymous formal complaint will be unable to utilize the appellate process described in Section 10.10.
4. Reporting to Outside Entities:
 - An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR)

Office for Civil Rights
U.S. Department of Education
1301 Young Street, Suite 1169
Dallas, TX 75202
Phone: (800) 537-76970
FAX: (214) 767-0432
 - Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission
Houston District Office
1919 Smith Street, 6th Floor
Houston, TX 77002
Phone: (800) 669-4000
FAX: (713) 651-4987
TTY: (800) 669-6820
ASL Video Phone: (844) 234-5122

5. ACCOMMODATING PREGNANT AND PARENTING STUDENTS

- 5.1. The University prohibits discrimination against any student, or exclusion of any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.
- 5.2. Among other requirements, this means the University must excuse student absences because of pregnancy, childbirth, or related conditions as long as the student's doctor deems the absences medically necessary. Documentation of medical necessity will be required. Schools must also allow for make-up work and offer a method to regain points lost due to medically required absences.
- 5.3. Following a medically-required absence, the student shall be reinstated to the status which they held when the leave began ([34 CFR 106.40](#)).

For additional guidance, please refer to
<https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf>

- 5.4. If you have questions about your rights as a pregnant or parenting student, please contact your university's Equal Opportunity Coordinator for accommodation requests or additional information.

6. RELIGIOUS ACCOMMODATION

The University prohibits discrimination against any student, faculty, or staff member based on their religion. Reasonable workplace accommodations will be made for persons with sincerely-held religious beliefs. Students should make requests for religious accommodation directly to their instructor. Employees should make requests for religious accommodation directly to their supervisor. If there are any concerns by any party, please contact the applicable Equal Opportunity Coordinator.

7. CONFIDENTIALITY

Equal Opportunity Services shall maintain documents related to Complaints under this policy as required by law.

The confidentiality of a Complaint under this Policy and all documents relating to the investigation of the information contained in a Report or Complaint will be maintained on a business need-to-know basis to the extent permitted by law.

8. RETALIATION

- 8.1. The University takes reports of discrimination and harassment very seriously and will not tolerate retaliation against those who make reports or who participate in the investigation or adjudication process.
- 8.2. Retaliation includes, but is not limited to, any adverse employment or educational action taken for making a report of unlawful discrimination or harassment, or for otherwise participating under this Policy.
- 8.3. Any actual or threatened retaliation or any act of intimidation to prevent or otherwise obstruct the reporting of harassment or violation of this policy or the participation in proceedings relating to unlawful discrimination or harassment, may be considered a separate violation of this Policy and may result in disciplinary sanctions.
- 8.4. Any person who believes that they have been subjected to retaliation should immediately report this concern to their Equal Opportunity Coordinator or an Assistant Coordinator.

9. PERSONAL ADVISORS

Any named Party will have the same opportunity to have a personal advisor of their choice present during any meeting or proceeding related to the investigation. This advisor may be an attorney, provided at their own expense, with no cost to the University.

- 9.1. The student will need to sign a [FERPA Release Form](#) for the advisor to be present at any meeting, proceeding or hearing. The form allows staff to speak freely about the student's case when the advisor is present. The student may revoke the release form in writing if they choose to no longer have the individual serve as their advisor or have access to the matter.
- 9.2. Advisors may attend any meeting, proceeding or hearing related to the investigation, but may not speak on behalf of the individual they are advising or be a witness. An advisor may ask to briefly suspend any meetings, interviews, or hearings to provide private consultation related to the meeting or proceeding in process.
- 9.3. During a hearing, an advisor will not be permitted to speak on behalf of the advisee, make an oral presentation, including an opening or closing argument, be a witness, or question witnesses, the EOS representative, or the Panel.
- 9.4. In the event that a party's advisor of choice presents a potential conflict of interest as determined by the Equal Opportunity Coordinator, the Equal Opportunity Coordinator will inform that party and provide a reasonable amount of time for the party to obtain an alternate advisor.
- 9.5. An advisor is subject to the same confidentiality expectations applicable to others in attendance. Accommodations, including scheduling of interviews or hearings, will not be made for any advisors if they unduly delay the process.

10. COMPLAINT PROCEDURES

EOS, located at the University of Houston System/University of Houston, works in conjunction with each university's Equal Opportunity Coordinator to administer all aspects of this Policy. Investigations can be completed by the university's Equal Opportunity Coordinator, their appointee, or by EOS.

A formal complaint may be filed by the alleged victim or by the University.

The timeframes set forth in this Policy may be extended when there is good cause to do so. The Complainant (or the non-participating alleged victim in cases where the University files the complaint) and the Respondent(s) will be notified in writing of the delay and the reason for the delay. Any proceedings under this Policy will be conducted in a prompt, fair and impartial manner from initial investigation to final result.

10.1. Step One: Self-Help

- A. An individual who believes that they are the subject of unlawful discrimination or harassment may choose to deal with the alleged offender directly through a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In some cases, this approach may resolve the situation; in others, it may be ineffective or place the individual in an uncomfortable, insecure, or compromised position.
- B. Under no circumstances should an individual feel pressured to address the alleged offender directly or handle the matter alone, and a decision not to confront a person she or he believes to be discriminatory or harassing will not be treated negatively under this Policy.
- C. Other forms of self-help include taking the issue up the supervisory chain, to Human Resources, or to the university's Ombudsperson, if available. If self-help measures prove unsuccessful or if the individual determines that it is not appropriate to engage in self-help measures, the individual may choose to pursue other appropriate methods of resolution.

10.2. Step Two: Contacting an Equal Opportunity Coordinator

- A. To request any action under this Policy, an individual should contact an Equal Opportunity Coordinator or Assistant Coordinator as close to the date of the incident(s) as possible. Early reporting and intervention have proven to be the most effective methods of resolving actual or perceived incidents of unlawful discrimination and harassment, and the University strongly urges the prompt reporting of concerns so that rapid and constructive action can be taken.
- B. To the extent that a concern is raised in an untimely manner, it is within EOS's discretion not to pursue the matter. Individuals may discuss issues relating to unlawful discrimination and harassment, with or without filing a formal complaint with EOS. An individual should be aware that by contacting EOS, they are placing the university on notice of potential unlawful discrimination or harassment and, depending on the facts and circumstances of the case, EOS may not be able to keep the information confidential and may be obligated to act.
- C. After reporting allegations of unlawful discrimination or harassment to EOS, an individual may ask that no further action be taken. Depending on the facts and nature of the case, EOS may or may not be able to honor the individual's request. The university reserves at all times the right to file a complaint on its own. Where the university cannot take disciplinary action against an alleged discriminator or harasser because of an individual's insistence on anonymity, the university will pursue other steps

to limit the effects of the alleged discrimination or harassment and attempt to prevent its recurrence.

- D. EOS may conduct a preliminary fact-finding review by gathering information from all sources judged necessary for a fair resolution of a concern. At the conclusion of the preliminary fact-finding review, EOS will inform the individual of the available options. These options may include no further action, a mediated solution to the issues raised, or a full investigation. If the preliminary fact-finding review reveals a probable violation under the Policy, EOS will forward the information gathered during the preliminary fact-finding review to the Respondent for response under Section 9.6 and the investigation will proceed as if a complaint was filed.
- E. In cases of alleged unlawful discrimination or harassment under this Policy, the EOS will determine whether mediation is an appropriate mechanism of potential resolution based on the nature of the allegations. Mediation is an informal and confidential process by which parties can participate in a search for fair and workable solutions. Mediation requires the consent of both parties and suspends the complaint procedures for up to thirty (30) calendar days, a period that can be extended at the discretion of the Equal Opportunity Coordinator upon consent of both parties. The parties may agree upon a variety of resolutions such as modification of work assignment, training for a department, or an apology. If mediation results in a resolution, the matter will be closed and neither party has the right to appeal. If the parties are unable to reach a resolution, a formal complaint may be filed under Step Three (Section 10.3).
- F. Resolution Agreement: If a report or complaint alleges a non-violent violation of this Policy, the Complainant and Respondent may agree to resolve the report or complaint by agreement rather than after a finding by EOS under this Policy. Under a Resolution Agreement, the parties agree that without a finding by EOS, the Respondent will participate in training or other conditions as set forth in the Resolution Agreement. The Resolution Agreement is not an admission a guilt or responsibility by the Respondent, and neither party has the right to appeal.

10.3. Step Three: Formalizing the Complaint

- A. If an individual wishes to formalize a complaint, they will be asked to complete a Formal Complaint Questionnaire with their Equal Opportunity Coordinator, who will forward the complaint to EOS.
- B. The deadline for filing a discrimination or harassment complaint is 180 calendar days from the date of the alleged incident(s), although it is within EOS' discretion to pursue a matter that is untimely filed. It should be

noted that once a complaint is filed, if the Complainant decides to withdraw the complaint, the University's investigation may still proceed.

- C. If the alleged Complainant does not wish to pursue a formal complaint:
 - 1. The university may determine that it will serve as the Complainant if the alleged Complainant declined to file a formal complaint.
 - 2. The decision for the university to file a complaint with the university as Complainant is not taken lightly and will be based on various factors including, but not limited to, the type of allegations alleged in the report, prior reports received, potential for repeated behavior, and/or potential on-going risk to the victim or the University Community.
- D. Within five (5) business days after receiving a formal complaint, EOS will provide a copy of the complaint to the Respondent(s).
- E. Once a complaint is filed, if the Complainant decides that they want to withdraw the complaint, the university's investigation may still proceed.

10.4. Step Four: Complaint Evaluation

- A. EOS reserves the right to not proceed with a formal complaint for the following, non-exclusive reasons:
 - If a complaint is not filed timely;
 - If the complaint, on its face does not provide sufficient details or facts for a finding to be made under the Policy;
 - If the Complainant expressly or by action declines to cooperate with the investigation;
 - If an appropriate resolution or remedy has already been achieved;
 - If the conduct/behavior described in the complaint is not covered by a policy enforced by EOS;
 - If the university no longer has control over the Respondent and, when appropriate, remedies have been offered to the Complainant.
- B. If EOS decides to not proceed with a formal complaint, EOS will notify the Complainant within five (5) business days of the decision explaining the reason(s) for this decision. This notification will also include a statement informing the Complainant of their ability to refile their complaint and that this new complaint will be assessed on its own merits.

10.5. Step Five: Consideration of Interim Measures

- A. Although interim measures may have already been considered and implemented, EOS will again consider interim measures when a formal complaint has been filed to protect involved parties while the incident is investigated and adjudicated under this Policy.
- B. EOS and other appropriate university administrators will work together to identify alternative arrangements that will preserve the rights of both the Complainant and the Respondent(s), as well as provide a safe overall educational or working environment until (and perhaps after) the complaint is investigated and adjudicated.
- C. Failure to adhere to the parameters of any interim measure may be considered a separate violation of this Policy and may result in disciplinary action.

10.6. Step Six: Response to a Complaint

- A. A Respondent's response to the complaint is due to EOS within five (5) business days from the Respondent's receipt of the complaint. EOS may grant an extension for good cause.
- B. The response should address and respond to the specific allegations made in the complaint and can include any other rebuttal information.
- C. A response may be provided in writing or through an in-person interview with the investigator(s).
- D. While a Respondent is not required to provide a response to the complaint or answer questions related to the investigation, this will not stop the Formal Complaint process.
- E. A Respondent's failure to acknowledge the receipt of the complaint may be considered a violation of relevant University policies and could result in additional action.

10.7. Step Seven: EOS Investigation

- A. Absent extenuating circumstances, an investigation will begin upon receipt of a complaint of alleged discrimination or harassment.
- B. An investigation may begin prior to receiving a response from a Respondent.
- C. The investigator(s) will attempt to interview the Complainant, the Respondent(s), and any witnesses, as appropriate.

- D. The investigator(s) will also gather and review any information they deem pertinent, as well as any information submitted by the Complainant, the Respondent(s), and/or any witnesses.
- E. If during the course of an investigation additional actions that may constitute a violation of Policy are identified, the University will determine on a case-by-case basis whether and how to investigate those allegations. Facts used to make this determination include, but are not limited to, the type of action identified and whether the actions occurred during the same incident or during a separate incident.

10.8. Step Eight: EOS Finding

- A. A finding by EOS will be issued as soon as practicable. The Complainant and Respondent(s) will have the opportunity, but are not required, to respond to the EOS investigation report in advance of the EOS finding. The Complainant and Respondent(s) should be provided updates on the progress of the investigation and issuance of the report.
- B. The finding(s) will be determined using a preponderance of the evidence standard, that is, whether it is more likely than not that a Respondent violated this Policy.
- C. If it is determined that this Policy was violated, appropriate university action will be recommended in an effort to eliminate discrimination or harassment, prevent its recurrence, and address its effects.
- D. Even if it is determined that this Policy was not violated, a recommendation may be made that a Respondent undertake educational initiatives and/or trainings.
- E. The Complainant and the Respondent(s) will be simultaneously notified in writing of the outcome of its finding(s) and any appeal rights under this Policy.
- F. At any time after finding(s) have been made that a Respondent has violated the Policy, the university may implement an interim sanction against the Respondent while the complaint is being further adjudicated.
- G. Once finding(s) have been made, any party to the complaint may request to meet with the investigator(s) to discuss the investigation, finding(s), and/or to inspect the investigative file.

10.9. Step Nine: New Information

- A. If a party has new information they believe would have significantly impacted the finding(s) (e.g., witness testimony, documents, or other

tangible evidence), they may submit that information to the Equal Opportunity Coordinator.

- B. If the Equal Opportunity Coordinator determines that the submitted information should be reviewed and the information was not available for the party to present during the investigation, the case may be re-opened.
- C. The Equal Opportunity Coordinator will inform the party(ies) who did not bring forth the new evidence of the request to reopen the investigation and the basis for the request. These parties will have the opportunity to respond to this information, and the Equal Opportunity Coordinator will consider the response(s) in deciding whether to reopen the investigation.
- D. If the Equal Opportunity Coordinator decides to reopen the investigation, the parties will be notified, and the process will resume at Step Seven above.

10.10. Step Ten: Appeal

A. Filing an Appeal

1. An appeal of EOS' finding(s) must be submitted in writing to the Equal Opportunity Coordinator within five (5) business days of receiving the finding(s).
2. The Complainant and the Respondent(s) have the right to appeal a finding for any error or procedural defect occurring during the investigation that could have significantly impacted the finding.
3. An appeal is not a new investigation of the complaint.
4. A non-appealing party does not have to participate.
5. If an appeal is filed in accordance with this Section, the appeal will automatically be presented to the University's Equal Opportunity Services Hearing Board ("Board") by the Equal Opportunity Coordinator.
6. The appellant may withdraw an appeal by submitting a request in writing to the Equal Opportunity Coordinator prior to the scheduled start of the hearing. A withdrawn appeal will conclude the matter.

B. Composition of the Board

1. Members of the Board are selected from recommendations from the university's Faculty Senate, Staff Council, and Student Affairs departments/offices, who shall each recommend at least five (5)

individuals to the university's President. The President shall then select a Board of eight (8) with representation from each group recommended. Except for the first Board, members shall serve staggered terms of three (3) years.

2. If a conflict of interest arises for any of the Board members, the Equal Opportunity Coordinator will make a recommendation to the Board Chair to reduce or eliminate the conflict of interest.
3. Upon the Board's receipt of the appeal, a poll will be taken of the Board members by the Equal Opportunity Coordinator to identify four (4) members to hear the appeal and compose the Hearing Panel (three (3) members of the Hearing Panel will serve as voting members and one (1) will serve as an alternate, non-voting member).

C. Responsibilities of the Hearing Panel

1. The Hearing Panel will make decisions using a preponderance of the evidence standard.
2. The role of the Hearing Panel is to recommend that the Appropriate Administrator accept, remand, or reject EOS' finding(s).
3. The Hearing Panel can only recommend remanding EOS' finding(s) if:
 - a. an error or procedural defect occurred during the investigation that could have significantly impacted its finding(s), or
 - b. further EOS investigation is warranted for any other material reason.
4. The Hearing Panel can only recommend rejecting EOS' finding(s) if:
 - a. the weight of the evidence does not support or is contrary to EOS' finding(s), or
 - b. an error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.
5. While the Hearing Panel will have the opportunity to review any evidence presented on appeal, their role is not to reinvestigate the original complaint or to review allegations that would otherwise

constitute a new complaint under this Policy or any other University policy.

D. Preparing for a Hearing

1. Absent extenuating circumstances, the Equal Opportunity Coordinator will schedule a hearing to be held within fifteen (15) business days from the filing of the appeal.
2. Once the hearing is scheduled, requests to reschedule the hearing must be submitted in writing to the Equal Opportunity Coordinator and will be considered by the Hearing Panel and the Equal Opportunity Coordinator.
3. The Complainant and Respondent(s) will be notified of the composition of the Hearing Panel for their hearing. Within five (5) business days of this notification, the Complainant and Respondent(s) have the opportunity to object to a panel member for cause. The objection should be made in writing. The Equal Opportunity Coordinator, in consultation with the members of the panel, will consider any objection and replace the panel member if appropriate.
4. Both parties may bring an advisor of their choosing, consistent with the provisions of Section 9 of this policy. This advisor may be an attorney, provided by the party and at no cost to the University.
5. No later than five (5) business days prior to the hearing, all materials that will be used at the hearing must be submitted to the Equal Opportunity Coordinator or their designee, who will forward the materials to the Hearing Panel and will simultaneously make available for inspection or provide the materials to both parties. The materials must include:
 - a. All documents and other tangible evidence that will be used as evidence during the hearing
 - b. The names of any witnesses and a brief summary concerning the subject matter of the witness' expected testimony
 - c. The name of any advisor to be in attendance at the hearing and whether that person is an attorney
6. No advisor, witness, document, or tangible evidence will be permitted at the hearing unless such information was timely submitted.

7. No new information as described in Section 10.9.A will be presented to the Hearing Panel before or during the hearing.
8. It is the responsibility of the party wanting to present a witness to secure that witness.

10.11. Step Eleven: Hearing

- A. Prior to the beginning of a hearing, the members of a Hearing Panel will select a Chairperson for the hearing.
- B. The general course of the hearing procedure will be as follows, subject to the discretion of the Panel Chairperson:
 1. The Panel Chairperson will convene the hearing, introduce the individuals present, give a brief description of the process, invite questions about the process, and allow the parties the opportunity to present a brief opening statement;
 2. The appellant shall then present their evidence (including calling and questioning their own witnesses) to the Panel. If the other party participates, they shall have the same opportunity to present their evidence;
 3. EOS shall present its documentation related to the finding(s) to the Panel;
 4. The Panel Chairperson will allow the parties the opportunity to present a brief closing statement before concluding the hearing.
- C. During the hearing, the Panel Chairperson may impose the following guidelines:
 1. The Panel Chairperson may impose reasonable time limits on any stage of the hearing.
 2. The Panel Chairperson may also determine the relevance of, and place restrictions on, any witness or information presented.
- D. The Panel Chairperson and/or Panel may question any individual at any time during the hearing.
- E. The parties may question their own witnesses, but they cannot directly question each other or any other party's witnesses.
- F. The parties may request that the Panel Chairperson ask questions of another party or their witnesses by submitting proposed questions to the Panel Chairperson in writing either prior to or during the hearing.

- G. The Panel Chairperson may determine which questions are relevant, and the Panel Chairperson has the discretion to revise a question or to decline to ask the question.
- H. An audio recording of the hearing will be kept for the use of the Panel and for any appeal.
- I. In cases where an appellant or an appellee refuses to participate in the hearing, the Panel will convene and make a decision based on the evidence and testimony available to the Panel. Any party who declines to participate in a hearing waives any additional right to appeal.
- J. This hearing process is an internal University process and not a formal courtroom process in which rules of evidence and courtroom procedures apply.
- K. If the Panel determines it is necessary or advisable, alternative testimony options will be available such as allowing a witness to appear via other virtual means (e.g., via telephone).

10.12. Step Twelve: Panel Decision

- A. After the hearing has concluded, the three voting members of the Panel will deliberate in private.
- B. The Panel's decision(s) as discussed in Section 10.10.C.2 will be by majority vote.
- C. The Panel will communicate its decision by completing the Hearing Decision Form and forwarding it to the Equal Opportunity Coordinator within three (3) business days of the hearing. If the decision is to remand the case to EOS to correct an investigative error(s), the Panel will indicate the error(s) to be corrected.
- D. The Equal Opportunity Coordinator will then provide a copy of the decision simultaneously to all parties involved in the complaint.
- E. If the case is remanded to EOS to correct an investigative error, EOS will investigate and submit an Amended Report of Finding(s) to the same hearing panel for review. This Amended Report of Finding(s) will include the actions taken to correct the investigative error. The review process will then restart at Section 10.10.D.1.
- F. At the second hearing, testimony will begin with EOS' presentation, and all parties will be given the opportunity to respond to the new information provided by EOS, ask questions of EOS, and present any relevant witnesses and/or information.

- G. If the Panel accepts or rejects EOS' finding(s), any Party or EOS may appeal the Panel's decision to the Appropriate Administrator.
- H. Any appeal must be filed in writing within five (5) business days of the Panel's decision. If no appeal is filed by the deadline, the Panel's recommendation(s) become final.

10.13. Step Thirteen: Final Appeal to Appropriate Administrator

- A. The role of the Appropriate Administrator is to accept, reject, or remand the Panel's recommendation(s).
- B. The Appropriate Administrator can only recommend remanding the case back to EOS if they find:
 - 1. an error or procedural defect occurred during the investigation that could have significantly impacted EOS' finding(s), or
 - 2. further EOS investigation is warranted for any other material reason.
- C. The Appropriate Administrator can only reject EOS' finding(s) if they find:
 - 1. the weight of the evidence does not support or is contrary to EOS' finding(s), or
 - 2. an error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.
- D. The Appropriate Administrator can remand the case back to the Panel if they find an error or procedural defect occurred during the hearing:
 - 1. that could have significantly impacted the Panel's recommendation(s), or
 - 2. which caused harm to the appellant or appellee.
- E. If the Appropriate Administrator accepts or rejects the Panel's recommendation(s), the decision becomes final.
- F. If an appeal is filed, the Appropriate Administrator will review the record on appeal which may include the case file, appeal documentation, and hearing recording, and will render a decision within fifteen (15) business days from the date that the appeal is filed.
- G. If the Appropriate Administrator extends the fifteen (15) day deadline, they must provide an explanation to the parties, EOS, and the Equal

Opportunity Coordinator in writing by that deadline and every ten (10) business days thereafter.

10.14. Step Fourteen: Sanctions and Remedies

- A. If there is a finding of a violation of this Policy, and any appeal of the finding has been exhausted, EOS will recommend that appropriate university action be taken, and any sanction imposed on the Respondent(s) will be determined by and implemented by the appropriate administrator after consultation with the Equal Opportunity Coordinator.
1. If there is a finding of a violation of this Policy against a faculty member, any sanctions imposed on the faculty member will be determined by and implemented by the appropriate administrator after consultation with the Equal Opportunity Coordinator and consistent with the university's faculty handbook/manual.
 2. If there is a finding of a violation of this Policy against a non-faculty University employee, any sanction imposed on the employee will be determined by and implemented by the appropriate administrator after consultation with the Equal Opportunity Coordinator and consistent with the university's policies and procedures related to employee discipline.
 3. If there is a finding of a violation of this Policy against a student, any sanction imposed on the student will be determined by and imposed by the Dean of Student's Office or its equivalent after consultation with the Equal Opportunity Coordinator and consistent with the university's policies and procedures related to student conduct/discipline.
- B. The sanctions for committing an act of discrimination or harassment will be commensurate with the offense and may include, but are not limited to, the following:
- Probation (including disciplinary probation)
 - Temporary or permanent ban from campus locations (such as residence hall communities)
 - Ban from participating in campus organizations or activities
 - Disqualification from employment or student leadership positions
 - Withholding of transcripts, grades, diploma, or degree
 - Partial or full criminal trespass
 - Suspension from employment and/or enrollment

- Revocation of admission and/or degree
- Termination of employment
- Expulsion

C. If a party is dissatisfied with a sanction determined by the appropriate administrator under Section 10.14, they may appeal the sanction as follows:

1. Any appeal to the sanction against a faculty member must be addressed through the university's faculty handbook/manual;
2. Any appeal to the sanction against a non-faculty University employee must be addressed through the university's policies and procedures related to employee grievances;
3. Any appeal to the sanction against a student must be addressed through the appeal process in the university's Student Code of Conduct or its equivalent.

D. Remedies - Regardless of the finding(s), and in addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), to resolve complaints of discrimination or harassment, prevent any recurrence and, as appropriate, remedy any effects. These actions may include, but are not limited to, the following:

1. Determining whether discrimination or harassment adversely affected the Complainant's University standing;
2. In conjunction with University leaders, conducting a University climate check to assess the effectiveness of efforts to ensure that the University is free from discrimination or harassment, and using that information to inform future proactive steps that the University will take;
3. Providing targeted group training;
4. Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate discrimination or harassment and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the Complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the

Complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the Complainant declined as an interim measure.

10.15. Step Fifteen – Notification of Outcomes

- A. The Equal Opportunity Coordinator and/or EOS will simultaneously notify the Complainant and the Respondent(s) in writing of the outcome of the following stages of the process:
 - 1. The initial finding(s), including a rationale
 - 2. The procedures to appeal a finding
 - 3. The outcome of any appeal, including any changes to the finding(s)
 - 4. Any interim sanctions imposed
 - 5. Any changes to interim sanctions
 - 6. The final outcome of the complaint
 - 7. Any imposed sanctions, including a rationale
 - 8. Changes to sanctions related to the party once the outcome is finalized
- B. These notifications may be combined if they occur at the same time.
- C. The university will provide information regarding remedies available, such as Counseling and Interim Measures as discussed in Sections 10.2.C.1, 10.2.C.2, and 10.5. If a hostile environment is found to exist, the university will notify the Complainant of additional steps the university has taken to eliminate the hostile environment and prevent its recurrence.

11. SPECIAL PROVISIONS

11.1. Allegations Involving University-Affiliated Organizations

- A. If a report is made alleging that a University-affiliated organization has violated this Policy, EOS will notify the appropriate administrative department and/or adjudicative body over that organization to ensure a timely, equitable process to determine if an Organization violated relevant University policies.
- B. EOS will work in partnership with the appropriate adjudicative body should there be concurrent investigations involving individuals and

organizations, including, but not limited to, sharing information with appropriate University administrators who have a legitimate need to know.

- C. If a report is made involving an organization, EOS will seek to identify any individuals who may be involved. EOS will, in collaboration with the alleged victim whenever possible, determine whether a formal complaint will be filed against any identified individuals, as per this Policy.

11.2. Effect on Pending Disciplinary Actions

The filing of a complaint of harassment, discrimination, or retaliation under this Policy will not stop or delay any disciplinary action related to the Complainant who has been found to not be performing up to acceptable standards or who has violated University rules, policies, or procedures.

11.3. Non-Participating Alleged Victims

- A. Alleged victims who decline to serve as a Complainant per Section 10.3.C will maintain certain rights as per this Policy.
- B. When the University serves as a Complainant, it will work with the alleged victim to the extent they would like to participate.
- C. Non-complainant alleged victims do not have appeal rights as per this Policy.
- D. Non-complainant alleged victims receive the same notifications as the Complainant and Respondent as outlined in Section 10.15 of this Policy, unless they request otherwise.
- E. Non-complainant alleged victims always maintain the right to reasonable interim measures as outlined in Sections 10.5 of this Policy.

11.4. Additional Interventions

- A. When a report is received alleging a violation of this Policy, the University will take appropriate steps to assess whether additional actions, beyond a formal investigation and possible disciplinary sanctions, are appropriate.
- B. These actions may be implemented regardless of whether a formal complaint is filed and regardless of whether a finding of a violation is made.
- C. Actions may respond to the specific needs of impacted persons and/or may address the needs of the University community.

- D. Actions may include extending interim measures provided to impacted persons such as those listed in Section 10.5 or new actions taken to respond to immediate and long-term concerns regarding personal safety, academic success, and emotional well-being.
- E. Actions to address the needs of the University community may include, but are not limited to, training (both targeted training and campus-wide programs), campus safety assessments, campus climate surveys, and evaluation of policies and procedures.

11.5. Reports Outside of University Jurisdiction

If the University is notified that a Member of the University Community has reported an incident of discrimination or harassment, but the action occurred outside of the University's jurisdiction as described in Section 3, the University will still take reasonable steps to ensure the individual's safety while on campus and to offer the individual information about resources both on and off campus.

11.6. Training

- A. Investigator(s) will receive training at least annually on the issues related to Discrimination and Harassment and how to conduct the processes outlined in this Policy while being both trauma-informed and impartial while protecting the safety of alleged victims and promoting accountability.
- B. Members of the Equal Opportunity Services Hearing Board will receive training at least annually on the issues related to Discrimination and Harassment. These individuals will also receive training on the role of EOS to enforce this Policy, best practices for hearings and hearing panelists, and their role in ensuring and promoting safety, due process, and accountability.
- C. The University will provide training for all incoming students and new employees that increase their knowledge about this Policy, their rights, and resources, as well as strategies to prevent violence, promote safety, and reduce perpetration. Employees will receive initial mandatory training within thirty (30) days after their hire date and supplemental training every two (2) years.
- D. The University will provide on-going prevention and awareness campaigns for students and employees that will increase their knowledge about this Policy, their rights and resources, as well as strategies to prevent violence, promote safety, and reduce perpetration.

12. REVIEW AND RESPONSIBILITY

Responsible Party: Vice Chancellor for Legal Affairs and General Counsel

Review: Every five years

13. APPROVAL

Approved: /Dona H. Cornell/
Vice Chancellor for Legal Affairs and General Counsel

 /Renu Khator/
Chancellor

Date: February 4, 2021