

Procedures for Policy Prohibiting Discrimination

I. Complaints:

A. Generally

Individuals subjected to Discrimination should be aware that there are many ways to bring it to the attention of the University and, where proper, obtain redress or protection. Should a student, faculty, staff or third party complain of Discrimination on the basis of a protected class, they may contact the University Police Department (“TUPD”), Office of Inclusion and Institutional Equity (“OIIE”), or report online at www.towson.edu/reportit. TU will take appropriate action to address violations of this Policy.

In the event an employee reports an alleged violation of this policy to a supervisor, department head, dean, chair, or any other administrator in the employee's direct line of supervision, that person shall promptly refer the employee to OIIE and/or personally notify OIIE. OIIE shall then notify the complaining employee of the Policy prohibiting Discrimination and of the procedures for filing a complaint, or verify that the employee already has this information. In accordance with state law and TUPD policies, discipline against a sworn police officer will be handled through TUPD's internal procedures. TUPD will, however, notify OIIE of any such outcomes.

B. Reporting/Filing a Complaint

The University encourages students, faculty or staff members, and third parties who have experienced or are aware of alleged Discrimination to file a complaint with or make a report (to TUPD, OIIE, and/or online at www.towson.edu/reportit).

Written complaints or reports are encouraged but not required. The University expects a person to make a complaint or report within one year of the alleged incident. OIIE may waive this one year period upon a showing of good cause. However, if too much time has passed since the incident occurred, the delay may result in loss of relevant evidence and witness testimony, impairing the University's ability to respond and take appropriate action.

C. Good Faith Requirement

Reports or complaints of Discrimination must be made in good faith because they are so serious and have the potential to cause great harm if made without justification. Accordingly, it is a violation of the Policy and Procedure for an individual to make a complaint or report in bad faith or without justification. An individual found to have made a complaint or report in bad faith or without justification may be subject to disciplinary or other action.

D. OIIE Intake

Upon receiving an initial report or complaint, OIIE will assess whether an Investigation is justified. OIIE has the discretion to proceed with an Investigation regardless of the parties' preferences. In addition, OIIE may implement appropriate Interim Measures. Examples of Interim Measures include, but are not limited to, a referral to the University counseling or health center; academic assistance (such as course changes or withdrawals); referral to the Employee Assistance Program ("EAP"); schedule adjustments; or changes in work location.

E. Investigation

If the University knows (or reasonably should know) of possible Discrimination, it will take prompt and appropriate action, in accordance with this Policy and Procedure, to investigate or otherwise determine what occurred. This obligation applies to Discrimination covered by this Policy and Procedure, regardless of where the Discrimination allegedly occurred, whether a parallel law enforcement investigation or action is pending, or whether a written complaint/report is filed.

An Investigation is an impartial, fact-gathering process. It is intended to provide the parties an opportunity to share their perspectives and identify information they believe relevant to the allegations. The investigator interviews the parties and/or witnesses separately. They also gather physical evidence, such as documents, communications (including correspondence, email, text messages, social media, or other digital information), recordings (including audio and video), and other records as appropriate and available.

Where the Responding Party is a Student, OIIE will take the lead on investigating allegations of discrimination working in coordination with the Office of Student Conduct and Civility Education ("OSCCE").

F. Due Process Rights of the Parties

The University provides fundamental fairness to the parties. Among other things, this means they are provided notice of the charges and evidence, the right to present information and identify witnesses relevant to their case, to take part in an impartial Investigation, and to appeal the findings and/or sanctions. In addition, a party may have a Support Person present during meetings related to an Investigation.

If the Responding Party is a University employee, then any employee misconduct investigation procedures outlined in any University Policies and Procedures may apply. If the Responding Party is a student, please refer to the applicable disciplinary procedures noted in the University's Code of Student Conduct.

G. Standard of Review

The University investigates allegations of Discrimination to determine whether there is evidence to indicate a policy violation is “more likely than not.” This standard, called the preponderance of the evidence, corresponds to an amount of evidence indicating a policy violation is more than 50% likely.

In such Investigations, legal terms like “guilt, “innocence” and “burdens of proof” are not applicable, but the University never assumes a Responding Party is in violation of university policy. Investigations are conducted to take into account the totality of all evidence available, from all relevant sources.

H. Written Report of Investigation and Finding

Upon completion of its investigation, OIIE will complete an Investigation Report that includes the allegations, the relevant evidence, and the witness statements (e.g., the “who, what, when, and where”).

1. Where the Responding Party is a **Student**, OIIE will forward a copy of its Investigation Report to OSCCE for adjudication in accordance with the disciplinary procedures set forth in the Code of Student Conduct.
2. Where the Responding Party is **Staff** or **Faculty**, OIIE will notify the parties and provide them with an opportunity to review a summary of the draft Investigation Report. Upon receipt of such notice, a party has three (3) business days to schedule an appointment to review a summary of the draft Investigation Report. Except in extraordinary circumstances a party shall provide any comments or additional information to OIIE within three (3) business days after their appointment. After receiving input from the parties, if any, OIIE will create a final Investigation Report. OIIE will evaluate the final Investigation Report, make findings of fact, analyze those facts, and issue a notice of findings to both parties and appropriate University administrators.

III. Sanctions

The following sanctions may be imposed upon any member of the community found to have violated this Policy and Procedure. Factors considered in sanctioning are defined in the University Code of Student Conduct and other applicable University Policies and Procedures. Sanctions that may be imposed, include, without limitation:

A. Student Sanctions (listed below and defined in the Code of Student Conduct)

- Censure;
- Probation;
- Suspension; and
- Expulsion.

With respect to Student Responding Parties, the Director of the OSCCE, in

accordance with the provisions of the Code of Student Conduct, is responsible for imposing disciplinary action. Discipline that impacts a student's status with the University is subject to the approval of the Office of Student Affairs. Failure to comply with any sanctions may result in further disciplinary action that could impact a student's disciplinary status with the University.

Factors considered in sanctioning are defined in the University Code of Student Conduct and other applicable University Policies and Procedures. The University imposes sanctions consistent with the Code of Student Conduct. See https://www.towson.edu/studentaffairs/policies/documents/code_of_student_conduct.pdf.

B. Staff Sanctions

With respect to Staff Responding Parties, any disciplinary action or corrective measures will be imposed by the appropriate supervisor, in consultation with the Office of Human Resources, OIIE, and other relevant administrators, as needed. This may include the following:

- Unit transfers;
- Reassignment of duties;
- Mandatory training
- Verbal reminders;
- Written reminders/letter of reprimand;
- Suspension without Pay;
- Suspension pending charges of removal; and
- Termination

Staff may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights. See USM Policies VII-08.00 (Policy on Grievances for Nonexempt and Exempt Staff Employees) and VII-08.05 (Policy on Grievances for Regular Exempt Employees).

C. Faculty Sanctions

With respect to Faculty Responding Parties, disciplinary action or corrective measures will be imposed by the appropriate supervisors, in consultation with the Office of the Provost, OIIE, and other relevant administrators, as needed. This may include the following:

- Reassignment of duties;
- Mandatory training;
- Verbal reminders;
- Written reminders/ letters of reprimand;
- Suspension with or without pay;
- Termination.

Faculty may grieve discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights under TU Policy 02-04.00 – Responsibilities and Procedures of the Faculty Grievance and Mediation Committee and the Faculty Hearing Committee.

IV. Appeals

Where the Responding Party is a **student**, a party may appeal an OSCCE finding regarding a violation of the Policy in accordance with the procedures set forth in the Code of Student Conduct.

Where the Responding Party is **staff or faculty**, a party may appeal an OIIE finding regarding a violation of the Policy. The Vice President of Inclusion and Institutional Equity hears appeals and their decision is final. A party must submit a written statement of their intent to appeal and grounds within ten (10) business days of the date of receipt of the notice of finding to OIIE at oiie@towson.edu. If an appeal is received by OIIE, the other party will be notified and given ten (10) business days to submit a written statement. All appeals and responses shall include the party's name and contact information. All appeal documents submitted by a party will be shared with the other party.

If neither party submits an appeal, the decision will be considered final ten (10) business days after the last date either party received the findings. Appeals submitted after ten (10) business days shall be denied, except upon a showing of good cause.

Please note that any sanction or discipline imposed must be appealed (or grieved) as indicated below and consistent with those departments' policies and procedures:

- Involving a Staff Responding Party shall be reviewed by the Office of Human Resources or designee;
- Involving a Faculty Responding Party shall be reviewed by the Faculty Hearing Committee; or
- Involving a Student Responding Party shall be reviewed by the Student Appeals Committee.

A. Grounds for Staff/Faculty Appeal of OIIE Finding

The appealing party has the burden of proof, and the standard of proof is preponderance of the evidence. Appeals are not intended to allow for a review of the entire investigation, with the exception of new evidence, as referenced above.

Dissatisfaction with a finding or sanction is not a valid basis for appeal. However, either party may appeal an OIIE finding on the following grounds:

1. A flaw or denial of due process rights;

2. New evidence or insufficient consideration of all aspects of the situation; and/or
3. Evident bias in the Investigation

B. Staff/Faculty Appeal Format and Content

All requests for appeals must be submitted in writing to OIIE:

1. Emailed to: oiie@towson.edu; or
2. Mailed or hand-delivered to

Office of Inclusion and Institutional Equity
8000 York Road
Administration Building, Room 214
Towson, MD 21252

The appeal must specifically state the basis for appeal and include relevant supporting documentation. The party appealing should address the central issue of the appeal directly, as irrelevant information will not be considered. If the appeal is a response to the other party's appeal, the appeal should act as a response, either in support or in opposition, to the central issues of the other party's appeal.

C. Appellate Finding

The Vice President of Inclusion and Institutional Equity will review the written record, including the investigation report and the parties' appeal documents. The parties are not entitled to a hearing or meeting with the Vice President. Decisions regarding appeals are typically made within fifteen (15) business days after receipt of all necessary documentation. OIIE will forward a copy of the written decision to the parties and to appropriate University administrators.

The Vice President will issue a written decision, including a summary of their rationale and:

1. Deny the appeal (including for failure to meet a deadline or comply with these procedures);
2. Uphold OIIE's original finding;
3. Reject and reverse OIIE's original finding; or
4. Send the case back to an alternate investigator with specific directions to reconsider the original finding.

V. External Filing Procedures

OIIE shall ensure that the parties receive notice of their right to make a complaint to state or federal agencies. A person wishing to file a complaint with an external agency may do so with one of the following:

Equal Employment Opportunity Commission (EEOC)
10 Howard Street, Third Floor
Baltimore, Maryland 21201
TTY: 1-800-669-6820
<http://mccr.maryland.gov/>

Office of Civil Rights - United States Department of Education
Philadelphia Office (Regional Office for Maryland)
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Phone: 215-656-8541
Fax: 215-656-8606
Email: OCR.Philadelphia@ed.gov
Website: <http://www2.ed.gov/about/offices/list/ocr/index/html>

Maryland Commission on Civil Rights
6 Saint Paul Street,
Baltimore, Maryland 21202
Phone: 410-767-8600
Fax: 410-333-1841
<http://mccr.maryland.gov/Pages/Contact-Us.aspx>

Please contact one of these agencies to determine the filing requirements and time limitations. Failure to meet required deadlines may result in a loss of rights to seek a legal remedy.

Updated: 11/06/2019