

THE UNIVERSITY OF CENTRAL FLORIDA

OFFICE OF INSTITUTIONAL EQUITY INVESTIGATION PROCEDURES

These procedures, effective for all reports made to the Office of Institutional Equity (OIE) on or after August 14, 2020, govern OIE's investigation process when a University of Central Florida employee or other individual associated with the University is alleged to have violated any University policy or regulation within OIE jurisdiction.¹ With the exception of Title IX Sexual Harassment matters, these procedures apply to the policy referenced in UCF Regulation 3.001 (*Non-Discrimination and Affirmative Action Programs*) and the University's *Prohibition of Discrimination, Harassment and Related Interpersonal Violence Policy*, and implement the procedures referenced in UCF Regulation 3.0134 (*Grievances Alleging Discrimination*). The procedures set forth in the University's *Title IX Grievance Policy* apply to matters alleging Title IX Sexual Harassment.²

¹ Hereinafter, all references to "University" include any UCF campus and instructional site, including the University of Central Florida's Main Campus, Rosen College of Hospitality Management, Health Sciences Campus, Altamonte Springs, Cocoa, Daytona Beach, Leesburg, Ocala, Palm Bay, Sanford/Lake Mary, South Lake, Valencia East, Valencia Osceola, and Valencia West. Also, these procedures apply when an employee, contractor, vendor, visitor, resident, guest or other third party affiliated with the University is alleged to have violated any University policy falling under OIE jurisdiction.

These procedures do not govern reports in which a University of Central Florida student is alleged to have violated any University policy or regulation (*see* <http://osc.sdes.ucf.edu/>). Those reports are governed *The Golden Rule* (*see* <http://goldenrule.sdes.ucf.edu/>).

These procedures also do not apply when another University office (i.e. Human Resources, University Audit, University Compliance, Ethics and Risk, etc.) leads an investigation and that office requests assistance or participation by OIE staff.

² Title IX Sexual Harassment includes conduct that occurs on the basis of sex in a University education program or activity in the United States that satisfies one or more of the following: (1) An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo); (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity (i.e., hostile environment); or, (3) Sexual assault (as defined by the Jeanne Clery Act), or dating violence, domestic violence, and stalking (as defined by the Violence Against Women Act) - and also meets the following criteria: The conduct is alleged to have occurred on or after August 14, 2020; against a person located in the United States; and, in or as part of the University's activity or program. *See UCF's Title IX Grievance Policy.*

Individuals wanting to report discrimination, discriminatory harassment, Title IX Sexual Harassment and/or retaliation are encouraged to contact OIE as soon as possible following an incident to allow for internal resolution of their complaints, and to connect employees and students with appropriate resources. These procedures govern OIE's investigations of alleged violations of university policies and regulations, with the exception of Title IX Sexual Harassment allegations, which are governed by the University's *Title IX Grievance Policy*. Suspected crimes or any behavior that poses an imminent risk to any person or the university community should be reported immediately to law enforcement.

OIE will make appropriate arrangements to ensure that individuals with disabilities and individuals with limited English proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed to participate in this investigation process. Such arrangements may include, but are not limited to, providing qualified interpreters or assuring a barrier-free location for the proceedings.

I. UNIVERSITY POLICIES UNDER OIE'S JURISDICTION

- A. The University prohibits unlawful discrimination in education, employment, and the provision of services on the basis of legally protected characteristics [race, color, ethnicity, national origin, religion, non-religion, age, genetic information, sex (including pregnancy, parental status, gender identity or expression, and sexual orientation), marital status, physical or mental disability (including learning disabilities, intellectual disabilities, and past or present history of mental illness), political affiliations, prior conviction of a crime, veteran's status (as protected under the Vietnam Era Veterans' Readjustment Assistant Act), or membership in any other protected classes as set forth in state or federal law]. More specifically, the University prohibits discrimination, as well as discriminatory harassment, sexual assault, sexual exploitation, relationship violence, stalking, sexual or gender-based harassment, Title IX Sexual Harassment, complicity in the commission of any of these acts, and retaliation against a person for reporting, in good faith, any of these forms of misconduct or participating in or being a party to any investigation or proceeding related to any of these forms of misconduct under University policies and regulations ("Prohibited Conduct").
- B. In accordance with University policies and regulations, all parties who participate in the good-faith reporting, filing, investigation, and/or proceedings related to reports of discrimination or discriminatory harassment under these procedures shall be free from retaliation on the basis of their participation in this process.

II. GENERAL PROVISIONS

- A. Who May File a Complaint & Scope of Procedures
 - i. Reports of Prohibited Conduct may be filed by Students, Employees, or Third Parties.

1. “Complainant” means the individual who discloses having been subjected to any Prohibited Conduct under University policies and regulations, regardless of whether that person makes a report or seeks action under University policies and procedures.
 2. “Respondent” means the individual or group who has been accused of violating University policies or procedures.
- ii. These procedures apply to reports of Prohibited Conduct made against the following:
1. University Employees, including graduate students with classroom responsibilities;
 2. Direct Support Organization non-student employees; or
 3. Third Parties when: (a) the conduct occurred on campus or other property owned or controlled by the University; (b) the conduct occurred in the context of a University employment or education program or activity, including, but not limited to, University-sponsored study abroad, research, on-line, or internship programs; or (c) the conduct occurred outside the context of a University employment or education program or activity, but has continuing adverse effects on or creates a hostile environment for Students, Employees, Direct Support Organization non-student employees, or Third Parties while on campus or other property owned or controlled by the University or in any University employment or education program or activity.

B. Support Persons/Advisors

Complainants, Respondents, and witnesses shall have the right to have one (1) support person/advisor of their choice accompany them to any meeting with OIE related to a report or investigation under these procedures. A support person/advisor is any individual who provides the complainant or respondent with support, guidance or advice. The support person/advisor can be anyone – a friend, parent, professor, attorney, or anyone else the complainant or respondent would like to have with them. This individual will not be permitted to participate in or obstruct the interview. An individual who is reasonably likely to participate as a witness in the investigation may not serve as a support person/advisor during any substantive interview. It is within OIE’s discretion whether to reschedule a meeting due to a support person’s/advisor’s unavailability. Parties and witnesses must give prior notice to the investigator when any other person will be attending a meeting with OIE.

Interpreters and translators also may attend the interviews (in addition to a support person/advisor).

C. Right to File External Complaint

- i. Complainants shall be advised of their right to file an external complaint with the applicable state and/or federal agency that enforces laws

concerning non-discrimination and anti-harassment in employment or education such as the Florida Commission on Human Relations (FCHR), the Equal Employment Opportunity Commission (EEOC), and the Office for Civil Rights (OCR). *See* Appendix I for agency contact information. There is no requirement that individuals file a complaint with OIE before filing an external complaint.

- ii. When an external complaint has been filed, OIE and the Office of General Counsel (General Counsel) will review the complaint and determine on a case-by-case basis whether OIE will conduct its own, internal investigation or, if OIE has already commenced an investigation, whether such investigation will be discontinued in light of the external filing. As a general matter, when an individual chooses to file an external complaint, OIE will cease processing any complaint on the same subject.

D. OIE Files

OIE will create and maintain a file related to each report of Prohibited Conduct as described herein. The University is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report. OIE will take reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate the discrimination, harassment or retaliation; prevent its recurrence; and remedy its effects. However, OIE records may be disclosed as required by Florida's public records laws. Redactions required by the law will be made prior to production of the records (i.e. FERPA).

E. Informal Resolution

Nothing in these procedures precludes an individual from seeking to discuss or resolve concerns independently with the University's Ombudsperson. The Ombuds Office serves as a neutral resource that provides confidential and informal assistance to employees (including graduate students). <http://www.ombuds.ucf.edu/> With regard to Title IX Sexual Harassment allegations, contact with the Ombuds Office will not terminate the investigation or adjudication pursuant to the Title IX Grievance Policy.

III. WHERE AND HOW TO REPORT PROHIBITED CONDUCT

- A. A report of Prohibited Conduct may be made in written or verbal form to OIE:

Main Campus, Barbara Ying CMMS, Building 81, Suite 101
Mailing Address: 12701 Scholarship Drive, Suite 101, Orlando, FL 32816-0030
Phone: 407-823-1336; Email: ois@ucf.edu; Fax: 407-882-9009.

- B. The following information should be included in reports/complaints (to the extent known): the identities of the Complainant(s) and Respondent(s), the approximate date of the incident(s), a description of the concerning behavior, and, if applicable, the protected characteristic(s) alleged to be the basis of the discrimination or harassment.

IV. JURISDICTIONAL REVIEW & ASSESSMENT OF MERITS

- A. OIE will review any report made to its office to determine whether OIE has jurisdiction to investigate. If not, OIE will advise the reporting person and will not investigate the report further. However, OIE may, in its discretion, refer the report to other appropriate University offices for further review.
- B. If OIE has jurisdiction, OIE will assess whether the allegations constitute Title IX Sexual Harassment. If OIE determines that the allegations constitute Title IX Sexual Harassment, the procedures set forth in the University's *Title IX Grievance Policy* will be applied to the matter. If OIE determines that the allegations do not constitute Title IX Sexual Harassment, OIE will continue to apply the procedures set forth herein and will then conduct an assessment of the merits of the allegations to determine whether the conduct at issue, if it occurred as alleged, would constitute a violation of University policies or regulations. To make this determination, OIE's analysis is guided by state and federal law. If OIE determines that the conduct would not violate University policies and procedures even if all the allegations are credited, OIE will advise the Complainant of its determination and will not undertake further investigation. OIE may notify other individuals (including the Respondent) or offices within the University of the reported allegations in order to mitigate the impacts of any potentially discriminatory conduct.
- C. If, based on the allegations, OIE determines that the alleged conduct may violate University policies or regulations, the investigation will proceed as described below.³

V. THE INVESTIGATION

- A. OIE will send a Notice of Investigation to the Complainant and Respondent when it determines that it will initiate an investigation. OIE may determine an investigation must proceed even in the absence or withdrawal of Complainant participation.

³ In matters where the Respondent is a Third Party, OIE will review the information and correspond with the Third Party directly or the entity that manages the Third Party to address the allegations. OIE will not issue a Notice of Investigation or Investigative Report as set forth below.

- B. Respondents will be informed of the nature of the allegations against them and given an opportunity to respond. Respondents also will be informed that they may enlist the assistance of their union representative, if applicable, for support throughout this process. As their support person/advisor (sec. II(b)), a Respondent's union representative may accompany the Respondent to any meetings with OIE.⁴
- C. The standard of proof utilized in OIE's investigations is Preponderance of the Evidence, which is defined as that degree of relevant evidence which a reasonable mind, considering the record as a whole, might accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.
- D. OIE will invite the parties, as well as witnesses determined, in OIE's discretion, to have relevant information, to an interview with an OIE staff member. Parties and witnesses (as well as individuals assisting or supporting such persons) may not make a recording of the interview unless required as a reasonable accommodation for a disability. OIE also will obtain and review relevant documents or other evidence provided to or obtained by OIE.
- E. During the course of the investigation, OIE will provide the Complainant and Respondent with the opportunity to review their respective interview summaries and to provide any additional information. The Complainant and Respondent will have three (3) business days to provide any additional information to their interview summaries, and OIE will incorporate changes where appropriate.
- F. OIE strives to complete its investigation process within ninety (90) calendar days of its Notice of Investigation to the parties. This timeframe may be extended for good cause, which includes but is not limited to: investigations where additional time is necessary to ensure the integrity and completeness of the investigation; to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation; to accommodate the availability of parties and/or witnesses; to account for University breaks or vacations; to account for complexities of a case, including the number of witnesses and volume of information provided by the parties; or for other legitimate reasons. If OIE determines that the investigation may exceed ninety (90) calendar days, the investigator will advise both the Complainant and Respondent.
- G. OIE will notify the parties of its findings in writing at the conclusion of its investigation (Investigative Report). OIE also will notify the Office of the President, Provost or appropriate Vice President or designee, and any other individual or office that may need to know the information.
- H. OIE does not determine corrective actions for personnel, which may include discipline. The President, Provost or appropriate Vice President (or designee)

⁴ Information regarding collective bargaining units is set forth in Appendix II.

will determine what corrective action will be taken and assign implementation of the corrective action. These actions may include but are not limited to a specific remedy for the Complainant, policy changes, disciplinary action against the Respondent, reconsideration of an action, or other remedies. A monitoring schedule also may be prescribed.

VI. WRITTEN RESPONSE TO OIE'S INVESTIGATIVE REPORT

- A. Both the Complainant and Respondent have the option to submit a written response to OIE's Investigative Report.
- B. All written responses will be added to and maintained with OIE's file pertaining to the outcome.
- C. With the exception of Title IX Sexual Harassment findings, there is no appeal step within OIE's procedures. Disciplinary actions which rely on an OIE Investigative Report may be appealed through existing disciplinary processes. State or federal civil rights agencies may be contacted by the Complainant as appropriate.

APPENDIX I

MOST COMMONLY USED CIVIL RIGHTS ENFORCEMENT AGENCIES

The following list is intended as helpful information, not a definitive guide, to every possible agency. The University may accept a contract from a new agency at any time or a contract may end, thus terminating University affiliates' rights to pursue a complaint through that agency. Jurisdiction will be communicated to a potential complainant by each agency or organization.

Florida Commission on Human Relations (FCHR)

4075 Esplanade Way, Room 110

Tallahassee, FL 32399

PHONE: (850) 488-7082

TOLL-FREE: 1-800-342-8170

FAX: (850) 487-1007

EMAIL: fchrinfo@fchr.myflorida.com

For Those with Communication Impairments:

The Florida Relay Service Voice (statewide) 711

TDD ASCII: (800) 955-1339

TDD Baudot: (800) 955 – 8771

http://fchr.state.fl.us/file_a_complaint

U.S. Equal Employment Opportunity Commission (EEOC)

Miami Tower

100 SE 2nd Street, Suite 1500

Miami, FL 33131

PHONE: 1-800-669-4000

FAX: (305) 808-1855

TTY: 1-800-669-6820

A SL VIDEO PHONE: (844) 234-5122

<https://www.eeoc.gov/employees/howtofile.cfm>

U.S. Department of Education

Office for Civil Rights/Atlanta Office (OCR)

U.S. Department of Education

61 Forsyth Street S.W., Suite 19T10

Atlanta, GA 30303-8927

PHONE: (404) 974-9406

FAX: (404) 974-9471

EMAIL: OCR.Atlanta@ed.gov

TDD: (800) 877-8339

<https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

U.S. Department of Health and Human Services

HHH Building, Room 509F
200 Independence Avenue SW
Washington, D.C. 20201
PHONE: 1-800-868-1019
TDD: 800-537-7697

<http://www.hhs.gov/ocr/office/file/index.html>

<https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>

U.S. Department of Labor, Wage and Hour Division

Orlando Area Office
1001 Executive Center Drive, #103
Orlando, FL 32803
PHONE: (407) 648-6471

<https://www.dol.gov/whd/howtofilecomplaint.htm>

OTHER EXTERNAL ENFORCEMENT AGENCIES

If the issue of concern falls within a program funded by one of the following agencies, complaint processes may be available to University students, faculty, or staff:

NASA

Office of Diversity and Equal Opportunity
300 E Street SW, Room 4W39
Washington, DC 20546
HOTLINE: (866) 654-1440
PHONE: (202) 358-2167
FAX: (202) 358-3336
EMAIL: AssistedProgramComplaint@NASA.gov
TDD: (202) 358-3748
<http://odeo.hq.nasa.gov/documents/nondiscrimination.pdf>

U.S. DEPARTMENT OF ENERGY

Office of Economic Impact & Diversity
1000 Independence Avenue, SW
Washington, DC 20585
PHONE: (202) 586-8363
FAX: (202) 586-3075
<https://energy.gov/diversity/services/protecting-civil-rights>

U.S. DEPARTMENT OF AGRICULTURE

U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250
HOTLINE: (202) 720-2791
<https://www.usda.gov/contact-us>

U.S. GEOLOGICAL SURVEY

USGS National Center
12201 Sunrise Valley Drive
Reston, VA 20192
PHONE: 703-648-5953; 1-888-275-8747
<https://www2.usgs.gov/ask/>

U.S. AIR FORCE

4040 N. Fairfax Dr. Suite 500
Washington D.C. 20003
HOTLINE: 1-888-231-4058
<http://www.af.mil/EqualOpportunity.aspx>

U.S. ARMY

1500 Defense Pentagon
Washington, DC 20310
HOTLINE: 1-877-447-4487 PHONE: 800-872-2769
<http://gighthouse.org/en/military-knowledge-base/topic/grievances-and-filing-complaints>

U.S. COAST GUARD

2703 Martin Luther King Jr. Ave, S.E.
Stop 7000
Washington, D.C. 20593-7000
PHONE: 1-888-992-7387
<https://www.uscg.mil/civilrights/ContactUs.asp>

U.S. DEPARTMENT OF COMMERCE

1401 Constitution Avenue, N.W.
Washington, D.C. 20230
PHONE: (202) 482-0625
V: 202-482-4481
TTY: 202-482-2030
<http://www.osec.doc.gov/ocr/CivilRights/EEO/EEOProcess.html>

U.S. DEPARTMENT OF DEFENSE

DoD OIG Equal Employment Opportunity Office
4800 Mark Center Drive, 12E24
Alexandria, VA 22350-1500
HOTLINE: 800-424-9098
<http://www.dodig.mil/eo/process.html>

U.S. DEPARTMENT OF INTERIOR

1849 C Street, N.W.
Washington DC 20240
PHONE: (202) 208-3100
<https://www.doi.gov/pmb/eo/Complaints-Procedures>

U.S. DEPARTMENT OF JUSTICE

Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
<http://www.ojp.gov/about/ocr/complaint.htm>

U.S. DEPARTMENT OF STATE

Office of Civil Rights (S/OCR)
2201 C Street, NW
Washington, DC 20520
PHONE: (202) 647-9295 or (202) 647-9294
FAX: (202) 647-4969
EMAIL: socr_direct@state.gov
<http://www.state.gov/s/ocr/>

U.S. DEPARTMENT OF TRANSPORTATION

Departmental Office of Civil Rights
1200 New Jersey Ave, S.E.
Washington, DC 20590
PHONE: 202-366-4648
FAX: 202-366-5575
TTY/Assistive Device: 202-366-9696
<https://www.transportation.gov/civil-rights/complaint-resolution/complaint-process>

U.S. DEPARTMENT OF THE TREASURY

Director, Office of Civil Rights and Diversity
1500 Pennsylvania Avenue NW
Washington, DC 20220
FAX: 202-622-0367
<https://www.treasury.gov/about/organizational-structure/offices/Mgt/Pages/discrimination-complaint.aspx>

U.S. DEPARTMENT OF VETERANS AFFAIRS

Department of Veterans Affairs Office of Resolution Management (08)
810 Vermont Avenue, NW
Washington, DC 20420.
1-844-MYVA311 (1-844-698-2311)
Resolution Support Center 888-566-3982
<https://www.va.gov/orm/>
<http://www.oedca.va.gov/>
<https://www.va.gov/vaforms/va/pdf/VA4939.pdf>

U.S. ENVIRONMENTAL PROTECTION AGENCY

Office of Civil Rights (1201A)

1200 Pennsylvania Ave NW

Washington, DC 20460

PHONE: (202) 564-7272

FAX: (202) 501-1836

<https://www.epa.gov/ocr>

U.S. MARINE CORPS

Pentagon, Room 2A270

Washington, D.C. 20350-3000

PHONE: (571) 256-8301/8302/8304

<http://www.hqmc.marines.mil/igmc/Resources/Submit-a-Complaint/>

APPENDIX II

COLLECTIVE BARGAINING UNITS

If the issue of concern is experienced by a member of a collective bargaining unit, complaint processes may be available to those University faculty or staff. Information can be found as follows:

American Federation of State, County, and Municipal Employees (AFSCME)

<http://hr.ucf.edu/web/employeerelations/AFSCME.shtml>

Police Benevolent Association (PBA)

<http://hr.ucf.edu/web/employeerelations/PBA.shtml>

United Faculty of Florida (UFF)

<http://www.uffucf.org/>