



Equity Complaint Resolution Process for Harassment, Sexual Misconduct and Other Forms of Discrimination

TABLE OF CONTENTS

- 1. Introduction** 1
- 2. Confidentiality**..... 2
- 3. Independent Informal Resolution Efforts and Information**..... 2
- 4. Reporting and Use of Alcohol or Other Drugs** 3
- 5. Filing a Report and Mandatory Reporting**..... 3
- 6. Report Intake**..... 4
- 7. Interim Remedies/Actions**..... 5
- 8. Formal and Informal Resolution Procedures**..... 5
 - a. Informal Resolution Procedure 6
 - b. Formal Resolution Procedure 6
 - i. Investigatory Team..... 6
 - ii. Investigation..... 7
 - iii. Administrative Resolution..... 9
 - iv. The Appeal Process..... 11
- 9. Records**..... 13
- 10. Statement of Rights**..... 13
- 11. Consequences/Corrective Action** 14
- 12. Revision** 14
- 13. Discretion**..... 14
- 14. Potential or Perceived Conflicts of Interest and Other Unique Circumstances** 15
- 15. Community Expectations** 15
- 16. History** 15

1. Introduction

The University of Dayton (“University”) will act on any formal or informal complaint or notice of violation of the Nondiscrimination and Anti-Harassment Policy that is received by the Title IX/504 Coordinator & Equity Compliance Officer (the “Equity Compliance Officer” also serves as the University’s Title IX/504 Coordinator).¹

¹ Terms defined in the Nondiscrimination and Anti-Harassment Policy carry those same definitions in this process; thus, where a term is used in the process but the precise meaning is not known, please consult the Nondiscrimination and Anti-Harassment Policy and refer to the definition there. Additionally, references to “Equity Compliance Officer” throughout this process should be read to include the Equity Compliance Officer’s designee (which may, depending on the circumstances, be a Deputy Coordinator or a Civil Rights Investigator).

Equity Complaint Resolution Process, (continued)

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The procedures described below will apply to all complaints involving students, staff or faculty members. For matters that may result in disciplinary action, these two exceptions may apply: First, bargaining unit employees will be subject to the terms of their respective collective bargaining agreements to the extent those agreements do not conflict with federal or state compliance obligations; and second, for faculty, any complaint that the University's Nondiscrimination and Anti-Harassment Policy has been violated that is associated with matters outlined in Section I of the Bylaws and Operating Procedures of the Faculty Hearing Committee on Grievances, or Section I of the Bylaws and Operating Procedures of the Faculty Hearing Committee on Academic Freedom and Tenure, will be addressed in conjunction with those procedures, so long as an adequate remedy for any violation determined under this process remains in place.² Requests for responsive actions for complaints impacting campus or community member(s) brought against non-members of the University community are also covered by these procedures.

2. Confidentiality

Reports or notice that indicates the University's Nondiscrimination and Anti-Harassment Policy may have been violated generally cannot be kept confidential. Generally they must be reported to the Equity Compliance Officer and/or Deputies, or other University personnel with a duty to report such matters. All of those involved in the investigation or resolution of a matter are expected to respect and protect the privacy of those reporting or otherwise involved in any complaint related to the Nondiscrimination and Anti-harassment Policy. For a list of confidential sources and further information regarding confidentiality, please consult Section VI, entitled "Confidentiality and Reporting of Offenses Under this Policy," of the Nondiscrimination and Anti-Harassment Policy.

3. Independent Informal Resolution Efforts and Information

In the spirit of the Marianist charism of community, individuals may consider making reasonable effort to constructively and amicably resolve issues among the parties.³ 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. The Equity Compliance Office can facilitate such discussions, upon request, and monitor them for safety. Individuals are encouraged to contact the Equity Compliance Office if, prior to taking the step of filing a

² Note that the processes in this document are not meant to subject a respondent to multiple proceedings.

³ Parties refers to the complainant (reporting/impacted individual) and respondent (responding/accused individual)

Equity Complaint Resolution Process, (continued)

report, there are questions regarding the process, to understand whether the problem is appropriate for pre-complaint resolution efforts, or to seek guidance regarding options for informal or formal resolution. Such discussions may also help prevent tense situations from escalating to a hostile environment. If satisfactory resolution is not reached after discussion with the responding individual, the University reporting process may be initiated. The University does not require a reporting party to contact the person involved if doing so is impracticable or unsafe, or if the party believes that the conduct cannot be effectively addressed through such informal means.

Please do not wait to contact the Equity Compliance Officer or another University official until behavior becomes sufficiently serious (i.e., severe, pervasive, or persistent) to create a hostile environment. The University will take a proactive approach to preventing and addressing harassment. The Equity Compliance Officer reviews all online reports received and is also available to members of the University community for consultation.

Please be advised that if a reporting party chooses to work with the Equity Compliance Office to pursue an independent or facilitated informal resolution process, it is completely voluntary, and parties have the right to end the process at any time and initiate the formal resolution process outlined below.

4. Reporting and Use of Alcohol or Other Drugs

The University strongly encourages reporting of sexual assault, intimate partner violence (dating/domestic violence), and/or stalking. As noted in the Nondiscrimination and Anti-Harassment Policy, it is recognized that individuals who may have been drinking or using drugs/substances at the time of violence may be hesitant to report instances of violence. Alcohol or substance use should not be a barrier to reporting incidents of violence. An individual who experiences sexual violence (e.g., sexual assault, intimate partner violence, stalking) or a bystander who reports such an incident in good faith will not be subject to discipline under University Policy or Code of Conduct action for alcohol or substance use at or near the time of the reported incident.

5. Filing a Report and Mandatory Reporting

Any member of the community, guest or visitor who believes that they have experienced harassment or some other form of discrimination prohibited by the Nondiscrimination and Anti-Harassment Policy should contact the Equity Compliance Officer in person, by email, by phone, or electronically by using the Harassment and Discrimination Report Form located at: go.udayton.edu/nondiscrimination. It is also possible for employees to notify a supervisor, or for students to notify a staff or faculty member, or for any member of the community to notify Public Safety or a Deputy Coordinator of his or her desire to report a concern. These individuals will in turn notify the Equity Compliance Office. Note that certain departments of the University may have additional procedures and protocols in place to ensure that harassment or other bias-related conduct is not tolerated and is properly addressed.

Most employees receiving reports of a potential violation of the Nondiscrimination Policy are mandatory reporters and are therefore expected to promptly contact the Equity Compliance Office, within 1 business day of becoming aware of a report or incident. Submitting a Harassment and Discrimination Report Form online fulfills this mandatory reporting obligation. For confidential support, students can seek confidential assistance at the University Counseling Center, and employees can contact the Employee Assistance Program.

All reports received by the University will be treated with the maximum possible privacy. Subject to the University's obligation to redress violations, a reasonable effort will be made to maintain the privacy of those involved in a report of a possible violation. In all cases, the University will give consideration to the reporting party with respect to how a possible violation is pursued, but reserves the right, when necessary to protect the

Equity Complaint Resolution Process, (continued)

community and University, to investigate and pursue a resolution if the reporting party chooses not to initiate or participate in a complaint resolution process.

No person shall make an allegation that he or she knows to be untrue or knowingly provide false information during the course of an investigation. Making a false report or giving false information is a violation of University Policy and may be a basis for discipline, including expulsion or termination. Evidence of false reports or false information can be referred to the Equity Compliance Officer who in turn will consult with other University units as appropriate to address the concerns of false reporting.

6. Report Intake

All reports will be reviewed to determine appropriate follow-up and next steps. The scope of any investigation will be at the discretion of the Equity Compliance Officer. Normally, within three business days, an initial inquiry or review will be done to determine if the available information shows reasonable cause to believe a policy violation may have occurred, and, if so, what policy violation(s) should be considered for investigation. Where necessary, an initial inquiry may be conducted to gather sufficient information to make the determination whether there is sufficient reason to commence investigation. In most instances, the process begins with outreach to the impacted party to ensure the individual is aware of available rights and resources.

If the reported and available information does not indicate a policy violation may have occurred, the case will be closed with no further investigation, with notification to the impacted party where known. The complainant and respondent (if known) will be so notified in writing if an investigation of alleged domestic violence, dating violence, sexual assault or stalking is closed. When there is reasonable cause to believe a policy violation may have occurred, the University will initiate an investigation that is thorough, reliable, impartial, prompt and fair. Similarly, if, during the preliminary inquiry or at any point during an investigation, the Equity Compliance Officer determines that there is no reasonable cause to believe that policy has been violated, the process will end. The decision of whether reasonable cause to believe a policy violation may have occurred is not appealable. This decision lies in the sole discretion of the Equity Compliance Officer. Some matters may be referred for some form of conflict resolution, other policy action, and/or educational follow up.

For those matters that proceed, the report will be resolved through one of the processes discussed briefly here and in greater detail below:

- Informal Conflict Resolution – typically used for less serious offenses and only when both parties agree to informal resolution.
- Administrative Resolution – resolution by trained administrators.

The Equity Compliance Officer determines whether Informal Conflict Resolution or Administrative Resolution may be appropriate for a matter. Informal Resolution may only occur if agreed upon by all parties; otherwise, the Administrative Resolution Process applies. If Informal Resolution is desired by the reporting party and appears appropriate given the nature of the reported behavior, then the report will not proceed for further investigation unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Note that the University's ability to move forward in reviewing or investigating any matter depends on a number of factors including, but not limited to, knowledge of the complainant's identity and/or the complainant's willingness to initiate and pursue a formal investigation. Thus, if the report is filed anonymously,

Equity Complaint Resolution Process, (continued)

the University's ability to investigate will be limited, and an investigatory team likely will not be assigned. Additionally, if the complainant / reporting party does not wish to proceed or has asked that no action be taken, an initial inquiry (with or without complainant participation) may be necessary to help the Equity Compliance Officer determine if the available information indicates violence, threat, pattern, predation and/or weapon. In any matter where violence, threat, pattern, predation, and/or weapon is not indicated, the Equity Compliance Officer may respect a complainant / reporting party's request for no action and will investigate only so far as necessary to determine appropriate remedies. As necessary (*e.g.*, where safety is a concern or remediation is warranted), the University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

If a University official has a reasonable belief that a crime has been committed, she or he may be obligated to report that to law enforcement if police have not already been notified. In cases where a police investigation has been conducted or is being conducted, law enforcement may be able to provide some information to the Equity Compliance Officer. The University's investigation may be delayed for a short period of time upon a request from law enforcement, but will promptly resume as soon as possible. The University's Equity Complaint Resolution process is separate from any law enforcement investigation or action.

The investigation and resolution shall be completed as promptly as possible and in most cases within 60 working days of the date the report was received, unless extenuating circumstances interfere with such timely completion. In complex cases, when a summer or holiday break occurs or extenuating circumstances exist, these timeframes may be extended. The parties will be generally kept informed of any scheduling delays in completing the investigation and resolution process.

7. Interim Remedies/Actions

At any time during the process, the Equity Compliance Officer may recommend that interim protections, remedies for the complainant, respondent, or witnesses be provided by appropriate university officials. These measures may include, but are not limited to, separating the parties, placing limitations on contact between the parties (*e.g.* no contact orders, access restrictions), interim suspensions or reassignments, referral to counseling or health services, referral to Employee Assistance Program (for employees) or making alternative workplace or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the University's Nondiscrimination and Anti-Harassment Policy.

During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or University campus/facilities/events. As determined by the Equity Compliance Officer, this restriction can include classes and/or all other University activities or privileges to which the individual might otherwise have access. At the discretion of the Equity Compliance Officer, alternative coursework options may be pursued to ensure as minimal an impact as possible on either party.

The University will maintain the privacy of any interim actions or protective measures, sharing necessary information only with those who need to know so as not to impair the University's ability to provide the interim actions or protective measures. Every reasonable effort will be made to protect privacy.

8. Formal and Informal Resolution Procedures

The University has developed both an informal and formal resolution procedure to respond to potential violations of the University's Nondiscrimination and Anti-Harassment Policy. The use of the informal complaint resolution procedure is optional. In instances where parties involved do not wish to engage in the informal procedure, where informal resolution is not appropriate, or in situations where attempts at the

Equity Complaint Resolution Process, (continued)

informal procedure are unsuccessful, the formal procedure will be followed.

a. Informal Resolution Procedure

The University encourages informal resolution options when the parties desire to resolve the situation cooperatively and expeditiously. Regardless of whether the informal resolution procedure or formal resolution procedure is chosen, the respondent will be advised of the substance of the allegations made against them. If, when using the informal resolution procedure, the parties have failed to achieve progress toward resolution within 10 working days and have not agreed to an extended timeframe, the Equity Compliance Office may commence formal resolution. Where the parties opt to attempt informal resolution, information shared during informal processes may be included if the matter proceeds to formal investigation/resolution. The Equity Compliance Officer will keep records of any process undertaken and resolution that is reached, and failure to abide by any agreed outcome can result in appropriate responsive actions.

Please be advised that the informal resolution process is completely voluntary and that either party has the right to end the informal resolution process at any time and initiate the Formal Resolution Procedure. Also note that some reports of discrimination and sexual misconduct – such as cases of physical or sexual assault – may not be appropriate for informal resolution, but may require use of the Formal Resolution Procedure described below.

b. Formal Resolution Procedure

In response to reports where there is indication of policy violation(s) and the complainant does not seek to engage in informal resolution; informal resolution is not appropriate; or attempts at informal resolution have been taken but proven unsuccessful, the Equity Compliance Officer will implement a formal resolution procedure, which will consist of two parts: (i) the investigation and (ii) the disposition/ resolution.

i. Investigatory Team

The Equity Compliance Officer in consultation with appropriate campus authorities will appoint a trained investigator/investigatory team to conduct an adequate, reliable and impartial investigation of the complaint. The investigator(s) shall be members of the University community who are familiar with the Nondiscrimination and Anti-Harassment Policy and have specialized training and/or experience in the investigation and resolution of discrimination and harassment complaints, including complaints relating to sexual violence. (Note that, as explained in Section 13, in some circumstances an outside investigator may be retained.) Any real or perceived conflict of interest between an investigator and a party must be disclosed to the Equity Compliance Officer; whether an investigator with a real or perceived conflict of interest can nonetheless serve on an investigatory team will be assessed on a case-by-case basis. When it is determined an investigator can appropriately be appointed despite a real or perceived conflict of interest, protective measures may be put in place to ensure fairness in the investigation, where such measures are warranted. The investigatory team will act under the supervision of the Equity Compliance Officer and/or a Deputy Coordinator.

As noted above, if at any point it is determined that there is no reasonable cause to believe a policy violation may have occurred, at the discretion of the Equity Compliance Officer, the case will be closed with no further action and the complainant and respondent will be so notified (in writing if the allegation involved domestic violence, dating violence, sexual assault or stalking).

Equity Complaint Resolution Process, (continued)

The investigatory team serves as the fact finding investigator and may assist with initial inquiry and, where applicable, be tasked with investigating the report, preparing a written investigative report, making findings of fact, including analysis of the facts gathered.

ii. Investigation

The investigation generally will include interviews with the parties, if available; interviews with other witnesses as needed; and a review of relevant evidence, as appropriate. Disclosure of facts to witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation are encouraged to maintain confidentiality so as to protect the integrity of the investigation and the privacy of involved parties; however, such encouragement is not meant to impinge on any legal rights they may have.

Witnesses (as distinguished from the parties) are expected to cooperate with any notice to meet with regard to a University investigation and the Equity Complaint Resolution Process. Failure of a witness to cooperate with and/or participate in the Equity Complaint Resolution Process may constitute a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and/or may be interviewed remotely by phone, Skype (or similar technology), if the investigators determine that the situation, timeliness, or efficiency dictates a need for these options in interviewing.

Parties who elect not to participate in the investigation or who withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

The respondent will be informed of the substance of the reported information and related policies that may have been violated. If the respondent cannot be located, attempts at notification shall be documented.

During the investigation, both the complainant and the respondent will be asked to provide oral (through an interview) statements and may also choose to provide written statements. A respondent is expected to meet in person (or when necessary, by phone) as requested as part of these procedures. A complainant or respondent may opt not to participate in the investigation or to provide a written statement in lieu of or in addition to any interview with the investigators. However, it is important to note that any decision by a party not to participate or to limit participation in turn limits the ability of the University to discover facts that may support their version of the key events.

Complainants and respondents have a right to be accompanied by one support person of their choosing. The support person may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as a support person. The parties may choose a support person from inside or outside the campus community. The role of the support person is to serve as an advisor. A support person may be present with the respective party at scheduled interviews and other proceedings but is not permitted to speak on behalf of the party. Support persons may confer quietly with their advisee or in writing as necessary, as long as they do not disrupt the process.

Equity Complaint Resolution Process, (continued)

Both the complainant and the respondent will be asked to provide a list of possible witnesses as well as any written or physical evidence (e.g., texts, social media, emails, photos, medical reports, etc.) that they wish to be considered by the investigatory team. Any evidence that the investigatory team believes is relevant and credible may be considered, including history and pattern evidence. The investigatory team may exclude evidence that is improperly prejudicial, irrelevant or immaterial. Unless the investigatory team determines it is appropriate, the investigation and the outcome determination generally will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), or (3) the character of the reporting party. While previous conduct violations by the respondent are not generally admissible as information about the present allegation, the investigators may supply the resolution team (defined below, under “Administrative Resolution”) with information about previous good faith allegations regarding the respondent and/or findings to consider as evidence of pattern and/or predatory conduct.

OVERVIEW OF THE INVESTIGATION PROCESS:

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of additional information, as necessary.

The Equity Compliance Office will provide reporting party (complainant) and responding party (respondent) with a description of the alleged violation(s), a list of all policies that may have been violated, a description of the applicable procedures, description of interim measures (if applicable), and a statement of the potential sanctions/responsive actions that could result. Each party will have the opportunity to ask questions or clarification regarding policy and procedure. Both parties will be reminded prior to their interviews that they may have a support person of their choosing present for all meetings attended by the individual. The investigators will typically take the following steps, if not already completed (not necessarily in the order presented):

- In coordination with campus partners (e.g., the Equity Compliance Officer and/or Deputy Title IX Coordinator, who in turn might work with Student Development, Human Resources, the Provost’s Office, etc.), initiate or assist with any necessary remedial actions;
- Identify all policies that may have been violated;
- Assist the Equity Compliance Officer with an immediate preliminary inquiry to determine if there is reasonable cause to believe a policy violation has occurred;
- Commence a thorough, reliable and impartial investigation, strategically planning and identifying a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the respondent, who may be given notice prior to or at the time of the interview;

Equity Complaint Resolution Process, (continued)

- Prepare the notice of policy to be investigated on the basis of the preliminary inquiry. Provide an update if at any time new information may warrant updated notice;
- Meet with the complainant to gather information and/or finalize their statement, if necessary;
- Meet with the respondent to gather information and obtain/finalize their statement;
- Ask each party for witnesses they suggest be contacted as part of the investigation;
- Prior to the conclusion of the investigation, provide the complainant and respondent with a list of witnesses whose information may be included in the investigation report;
- Ask each party to suggest questions they wish the investigators to ask of the other party and/or witnesses;
- Provide parties with all relevant information and evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to finalizing the investigation report;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the complainant throughout the investigation, and to the respondent, as appropriate;
- Once the draft investigation report detailing relevant facts gathered is complete, share the draft report with the parties for their review and comment. The investigators may incorporate feedback from the parties as appropriate in finalizing the report.

At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Equity Compliance Officer has authority to terminate the investigation and conclude resolution proceedings and/or refer the matter for conflict resolution, other policy action, and/or educational follow up. If the allegations involved domestic violence, dating violence, sexual assault or stalking, each party will be notified in writing that the investigation has stopped.

Upon review of the investigative report, the respondent may choose to accept responsibility for violation of policy in which case the matter will proceed to referral for resolution and/or consequences.

iii. [Administrative Resolution](#)

At the conclusion of the investigation, the investigatory team will prepare a written investigation report and analysis. At a minimum, the report will include a statement of the charges (potential policies that may have been violated), a description of the applicable standards, a summary of the information considered, and where applicable, an assessment of credibility of the parties and witnesses and an analysis of the information. The investigators may, in their discretion, include in the report guidelines for interpreting or weighing any evidence (such as scientific evidence, if any such evidence has been provided or gathered).

Equity Complaint Resolution Process, (continued)

The investigative report will describe whether the facts gathered may be sufficient to establish a violation for each of the charges.

The investigatory team will share the report with a trained investigator (Deputy Coordinator or designee not otherwise involved with the given investigation), who will review the information. The third investigator has the option to contact the parties or witnesses if that investigator finds it appropriate to obtain more information or to clarify the information gathered by the investigatory team. The separate investigator together with the investigatory team are referred to throughout this process as the “resolution team”, and it is that team that will determine whether it is more likely than not that a policy violation(s) has occurred. In determining whether a policy violation has occurred, the resolution team will apply the preponderance of the evidence standard.

For charges of violation of discrimination or harassing behavior, the possible outcomes are:

- A. Responsible: It is determined that the evidence/information available to the University indicates violation of this policy
- B. Not Responsible: It is determined that there is insufficient evidence/ information available to the University to indicate violation of this policy.

The resolution team will finalize the investigatory report to include a written resolution statement indicating the outcome and rationale for the outcome. The resolution statement, written in consultation with the Equity Compliance Office, may include recommendations for proposed remedial actions, including but not limited to, educational programs, counseling/coaching intervention, mediation, and remedies for the complainant, as appropriate.

In instances where there is a “Responsible” outcome indicating policy violation, the Equity Compliance Office will share the outcome with the appropriate office, *e.g.*, the Provost, the Vice President for Human Resources, the Vice President for Student Development, or Office of Legal Affairs (or specified designee of each such official or office), depending on the identity of the respondent (i.e., whether faculty, staff employee, student, or visitor) to determine disciplinary consequences. Consequences/corrective action determination will consider both the nature and outcome of the case and relevant conduct status or disciplinary history of the individual.

If the investigators find that the Nondiscrimination and Anti-Harassment Policy was not violated but they found that intentionally disruptive, bullying, or harassing behavior occurred, or a relationship was harmed that could be mended, they may recommend additional action to address the troubling behavior and/or to prevent recurrence. They may in consultation with the Equity Compliance Officer recommend mediation, counseling or other restorative steps be taken, and they could note that another University policy may have been violated such that corrective action may be warranted, and refer to the appropriate office.

The complainant and the respondent shall be informed of the completion of the resolution review and the outcome of the investigation by the Equity Compliance Officer. . In most instances, the complainant may be notified generally that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the respondent. For matters that include charges of sexual assault, intimate partner violence (dating/domestic violence), or stalking, the outcome will be communicated in writing.

Equity Complaint Resolution Process, (continued)

The complainant shall be informed of the findings and of consequences and/or other actions taken or recommended to resolve the matter, such as a recommendation that the respondent not contact the complainant. The respondent shall be informed of the findings and of actions taken or recommended to resolve the complaint and shall be notified of referrals for disciplinary action and related disciplinary consequences.

Any remedy will be consistent with the seriousness of the offense, and will be designed and imposed in a manner reasonably calculated to end the harassment and to prevent future policy violation or unlawful conduct.

The Equity Compliance Officer and/or Deputy Title IX Coordinator will oversee the implementation of any remedy. The Equity Compliance Officer and/or Deputy Title IX Coordinator will also follow up to ensure that the remedy is effectively preventing recurrence of the harassment and serving as the proper remedy for any discriminatory effects on the complainant and others, as appropriate. All situations are subject to follow-up after a period of time to assure that remedies and any other resolution measures have been implemented effectively.

iv. The Appeal Process

If a “Responsible” outcome is determined, the respondent may request appeal of the findings and consequences. If the respondent accepted responsibility, the request for appeal will only be considered for the consequences imposed.

For cases where the matter involves sexual harassment or sex discrimination (including sexual assault, dating violence, domestic violence or stalking), the complainant and/or respondent may request an appeal of the findings of the resolution team, whether Responsible or Not Responsible, and/or consequences imposed. If one party submits a request for appeal, the other party will be notified and provided opportunity to submit a request.

Generally, all grounds for appeal shall be based on the emergence of new evidence that was previously unavailable or based on the grounds that some aspect of this Equity Complaint Resolution Process was not adequately followed, as described in further detail below.

All appeals will be conducted in an impartial manner by a “Complaint Review Committee” (“CRC”), consisting of (a) a designee from either the Provost’s Office, Vice President of Student Development’s Office or the Office of Human Resources (depending on whether the respondent is a student, faculty or a staff employee); (b) a deputy coordinator who was not involved in the investigatory or resolution team; and (c) an investigator who was not involved in the investigatory or resolution team. The CRC appeals process is as follows:

- (1) The appealing party must submit the CRC appeal request, describing the basis of their request and all supporting documentation within 5 business days of the date of notice from the Equity Compliance Office of the outcome of the investigation. This request is to be submitted to the Equity Compliance Officer who will review the request to determine whether sufficient reason is presented to consider an appeal. If so, the Equity Compliance Officer will appoint the CRC for considering the particular appeal. Mere disagreement by the appealing party with a finding of fact by the investigatory or resolution team is insufficient to support an appeal.

Equity Complaint Resolution Process, (continued)

Only those requests that are determined to meet the following criteria will be forwarded to the CRC for appeal consideration:

- a. The appealing party has submitted/presented information that indicates a clear error in the Equity Complaint Resolution Process that may have affected the final outcome of the investigation and resulting actions taken. To establish the possibility of a clear error, the appealing party must point to a specific step in the investigatory process that was not undertaken in accordance with the procedure set forth above.
 - b. The appealing party has submitted/presented new evidence or new information that did not exist at the time of the investigation that would have had a bearing on the investigatory team's findings of fact. Information or witnesses that were known to the appealing party at the time of the investigation will not be considered new evidence for an appeal.
- (2) The investigator appointed to the CRC will undertake an initial review of the appeal. In so doing, this investigator may consult with the original resolution team on the case, review the investigation report used to make the determination, make other inquiries of the Equity Compliance Officer and consider other information as provided by the appealing party, all as they deem relevant.
- (3) The CRC will deliberate over the issues presented by the appealing party, with the benefit of any clarifications or other information gathered by the investigator member of the CRC in appeal step #2. The CRC will not reweigh the evidence. The actions that may be taken by the CRC include but are not limited to:
- a. Determination that no corrective action is needed as the new evidence/information and/or error would not change the original findings in the case.
 - b. Determination that the original resolution team is to be reconvened to consider the new evidence/information.
 - c. Determination that the case should be taken up by a new investigatory team or referred back to some other step in the Equity Complaint Resolution process.

In rare cases, the CRC may find it reasonable to suggest that the consequences/sanctions communicated in the outcome letter should be administratively altered. To be implemented, any such suggestion shall be done in consultation with the Equity Compliance Officer. The CRC will prepare a rationale for such alteration and forward the modified report to the University official who received the original report (e.g., the Provost, the Vice President for Student Development, the Vice President for Human Resources or Office of Legal Affairs, depending on the identity of the respondent).

- (4) Decisions rendered by the CRC or actions taken following the CRC's decision are final and not subject to further appeal. Cases that are sent back to the resolution team or another step in the Equity Complaint Resolution process are not eligible for a second appeal.

Equity Complaint Resolution Process, (continued)

The appealing party will be notified in writing of the outcome of the appeal, including whether the appeal request was eligible for appeal consideration and, if it was eligible, the CRC's determination.

9. Records

In implementing this process as the means of enforcing the University's Nondiscrimination and Anti-Harassment Policy, records of all reports, complaints, investigations, resolutions, and related records of remedy or follow up will be confidentially maintained by the Equity Compliance Office indefinitely as part of their records. Outcomes that include findings of responsibility for students will be noted in the student conduct records maintained by the Office of Community Standards & Civility. Records of all reported complaints, regardless of whether resolved through formal or informal processes, will be kept in the Equity Compliance Office records.

10. Statement of Rights

Complainant's and Respondent's Rights

- To be treated with respect by University officials.
- To an investigation and appropriate resolution of all reports of discrimination and/or harassment made in good faith to the appropriate University official(s).
- To receive notification that the respondent has been officially notified of charges of violating the University's Nondiscrimination and Anti-Harassment Policy. To take advantage of campus support resources (such as Campus Ministry, the University Health and Counseling Centers for students, and Employee Assistance Program services for employees).
- To experience a safe living, educational and work environment.
- To have a support person of their choosing during any meeting they attend with investigators. The support person cannot be someone who may be called as a witness. The role of the support person is to serve as an advisor. The support person may be present, but is not permitted to speak/participate.
- To decline to participate in informal resolution as the means for resolving a matter.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation for complaints made, or otherwise participating in an investigation, in good faith.
- To have complaints heard in substantial accordance with these procedures.
- To full participation in this process, including opportunity to provide evidence, suggest witnesses, and respond to fact finding included in the investigation report.
- To be informed of the outcome/resolution of the complaint, sanctions where permissible and the rationale for the outcome, where permissible. If the complaint involved charges of intimate partner violence (dating/domestic violence), sexual assault or stalking, this will be in writing.
- For residential students, the ability to request housing and living alternatives, if appropriate.
- A "no contact order," if appropriate. A no contact order is an order from a University Official to have no contact with a particular person or persons.

Equity Complaint Resolution Process, (continued)

11. Consequences/Corrective Actions

Factors considered when determining a consequences/corrective action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the decision makers
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community

The sanctions or other responsive actions recommended may range from a reprimand up to and including suspension or expulsion/termination. Generally, the University considers non-consensual sexual intercourse violations to be the most serious and therefore typically imposes the most severe sanctions on such violations, including suspension or expulsion for students and termination for University employees.

Please see the [Student Handbook](#), the [Staff Corrective Action Policy](#) and [the Faculty Policy & Governance Handbook](#) for more detailed information regarding the range of possible sanctions and/or responsive actions. Should a student or employee withdraw or resign while a formal investigation is pending, the resolution process will continue, and the individual will not be permitted to return to the University until the matter has been fully resolved and all sanctions (if any) have been satisfied.

12. Revision

These procedures, along with the Nondiscrimination and Anti-Harassment Policy, will be reviewed and updated (if necessary) annually, by the Equity Compliance Officer. The presumption is that such review and update will be concluded each summer, with appropriate input received and reviewed throughout the preceding academic year. The Equity Compliance Officer may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. However, the Equity Compliance Officer may also vary procedures materially with notice (on the University's website, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in the Nondiscrimination Policy and this procedure. Procedures in effect at the time of the reporting or other notice of an incident will apply. Policy in effect at the time of the offense will apply even if the policy is changed subsequently, unless all parties consent to be bound by the current policy.

13. Discretion

Where an issue is encountered at any juncture of a case that is not addressed specifically by this Equity Complaint Resolution Process or the Nondiscrimination and Anti-Harassment Policy, the University has the discretion to determine, in a good faith effort to comply with applicable legal requirements, how to address such an issue.

Equity Complaint Resolution Process, (continued)

14. Potential or Perceived Conflicts of Interests and Other Unique Circumstances

Situations may arise where a conflict of interest potentially exists or is perceived to exist, depending on the parties and reporting relationships involved; where the complexity of a matter may impede the University's ability to complete an investigation in a timely manner; or where the matter is otherwise sensitive. In any circumstance where such need arises, administrators other than the staff of the Equity Compliance Office, such as someone from the University's Office of Legal Affairs or someone retained by that office, may play a role in managing the investigation of the matter.⁴ At times, this may include the retention of an outside investigator/investigation team. An outside investigator may be retained if a report names certain officers of the University (e.g., certain Vice Presidents, the Provost, the President) as a respondent, or if anyone who reports to or supervises the Equity Compliance Officer is a party to a report. Other measures may be adopted, as warranted and in the University's discretion, in an attempt to avoid or otherwise manage any perceived or actual conflict of interest. Anyone who is a party to a report will not play any role (decision-making or otherwise) in the University's handling of the report.

In certain rare circumstances (depending on the parties involved), the Chair of the Audit Committee of the University's Board of Trustees may need to be notified about a report and involved in the resolution of the matter.

15. Community Expectations

The University encourages all members of its community, as well as visitors, to embrace and abide by the concepts of fairness reflected in this document. Accordingly, the University encourages honesty and candor on the part of anyone participating in any investigatory process. Further, where the investigatory process finds that no policy violation occurred yet wounds nonetheless are known to exist, the University encourages the parties involved to participate in attempts to bring healing to the fractured relationship, and in so doing, to exercise patience, cooperation and compassion.

Where an issue arises that is outside the scope of this Equity Complaint Resolution Process – i.e., an issue not related to misconduct directed at a protected class – staff employees should refer to the employee Dispute Resolution Process; faculty should present the matter to the Faculty Hearing Committee on Grievances; and students should contact the Dean of Students Office at 937-229-1212 or by email at deanofstudents@udayton.edu. Any visitor to campus who experiences perceived misconduct should consult with their contact on campus, or contact the Office of Legal Affairs (legalaffairs@udayton.edu). In any situation where an emergency exists, contact Public Safety at 911 or 937-229-2121.

Ideas for improving this process, as well as any other comments, should be directed to the Equity Compliance Officer (equitycompliance@udayton.edu).

16. History

These procedures were adopted December 10, 2013, implemented January 1, 2014, amended on October 27, 2014, August 19, 2015, July 10, 2017, and August 23, 2017.

⁴ Importantly, when such individuals have a role in managing an investigation, they do not play a decisional role. Rather, they serve as a resource for the investigators in helping to ensure that the University's policies and processes are followed. In addition, the Office of Legal Affairs, in their ordinary role as legal counsel for the University, may provide legal advice regarding the University's compliance obligations and general legal risks.