Accused Employee’s Rights and Process FAQs
Under Sexual Misconduct Policy

What happens if I am accused of violating the Sexual Misconduct, Discrimination and Harassment Policy?

After the Equal Opportunity and Title IX Coordinator, Bobby Mason (405) 325-3546, or the Sexual Misconduct Officer, Kathleen Smith (405) 325-2215 (collectively the “EOO”), receives a report that you may have violated the policy, he/she will contact you for an appointment. As a University employee, you are required to attend the meeting upon request. You will be asked about the incident and asked about your version of the events and whether you have any witnesses or evidence supporting your version of the events.

Where can I get assistance?

If you wish to engage your own attorney or other adviser, you are free to do so at your own expense. Generally, attorneys and advisers may attend meetings and hearings, but may not directly participate in the process. You may request a recess at any time to confer with your adviser/attorney. You may also request the services of the University’s Ombudsperson, (405) 325-3297.

What happens next?

The EOO will interview you and the witnesses you or the EOO identifies as relevant to the issues. There may be an additional University investigator assisting in the interview process. You may be interviewed more than one time for additional information once all witnesses are interviewed.

The EOO will draft a preliminary report and make a recommendation of findings determining whether, more likely than not, a policy violation occurred. The EOO, along with appropriate administrative officials, will make a determination whether sufficient evidence warrants that additional action be taken.

If a Finding of Impropriety is made against me, what happens next?

If a finding is made, you will receive a letter from the EOO and/or your supervisor, identifying the violations and remedies. If you disagree with either the findings or the sanctions, you may request an appeal through the Institutional Equity Office, by written request, identifying the reasons for appeal within five (5) University business days. The appellate request must identify (1) why there was insufficient evidence for the EOO’s findings, utilizing a preponderance of the
evidence standard, or (2) that there is additional evidence not previously available that substantially would have altered the EOO’s findings.

Upon receipt of a request for an appeal, a five-person hearing panel made up of individuals randomly selected from the respective campus’ Committee on Discrimination and Harassment who have been trained to hear sexual misconduct cases will be empaneled. You will have an opportunity to select panel members from the pool and to object to certain member’s service.

Within 10 University business days of the selection of the Hearing Panel, a Chair shall be elected by the panel members, and he/she shall attend an orientation conference and prehearing. The Chair shall review the EOO’s findings, the request for appeal, and the response. He/she shall determine whether a formal hearing is necessary. A formal hearing is warranted if the Chair determines (1) there was insufficient evidence, utilizing a preponderance of the evidence standard, to support the finding of impropriety; or (2) additional evidence not previously available exists that substantially would have altered the findings.

**What if the Chair determines no formal hearing is warranted?**

If the Chair determines that no formal hearing is warranted, you will be notified and the hearing panel’s services will be concluded. The executive officer over your area shall determine the appropriate sanction, after discussion with the EOO, and shall notify you of his/her decision. You may appeal the executive officer’s determination in writing to the President within five (5) University business days from the receipt of the decision. If the President does not act upon your appeal within five (5) University business days of your request, the executive officer’s decision is final.

**What if the Chair determines a formal hearing is warranted?**

If the Chair determines a formal hearing is warranted, the Chair will schedule a formal hearing to be held within 30 calendar days of his/her decision that a hearing is warranted. You will be notified of the date, time and location of the hearing along with other relevant information concerning the process.

**What is the formal hearing process?**

The parties shall provide the panel with a list of undisputed facts. The EOO shall present his/her findings, and the parties shall be asked whether they have anything additional to add. The Chair shall determine whether witnesses, testimony, or evidence is relevant and/or admissible. At no time may the charged employee and reporting party directly cross-examine one another. The
reporting party is not required to be present during the hearing and may testify through other means, e.g. behind a screen, via video-conferencing, etc.

The standard of proof is whether more likely than not a policy violation occurred. At the conclusion, the panel determines whether the findings or its result is supported by any evidence, or whether it would have been substantially altered by the new evidence that was not previously available.

**Is there any way to resolve the issues prior to the hearing’s conclusion?**

Yes, although the reporting party and the charged employee may not engage in direct mediation, the University may discuss options with you and the complainant, and reach an agreement prior to the conclusion of the hearing, ensuring that any harassment has ceased, any future harassment is prevented, and appropriate remedial measures have been taken.

**What happens at the conclusion of the hearing?**

At the conclusion of the hearing, the hearing panel shall determine by majority vote whether more likely than not a policy violation occurred. The Chair is a non-voting member unless he/she is needed to serve as a tie-breaker. The hearing panel shall reduce its findings to writing and shall notify the Institutional Equity Office of its decision within three (3) University business days of the hearing. The Institutional Equity Office shall immediately notify the appropriate executive officer with copies to the President.

Within three (3) University business days of receipt of the panel’s decision, the appropriate executive officer shall render his/her decision. Any party may appeal the executive officer’s decision to the President within three (3) University business days of receipt of the executive officer’s decision. If the President does not act within three (3) University business days of the appeal, the executive officer’s decision shall be final.

**What are the potential sanctions?**

Depending on the nature and severity of the violation as well as an examination of the aggravating and mitigating circumstances, sanctions range anywhere from education, counseling, and training to termination.

**What if no Finding of Impropriety is made?**

If the EOO does not find that a policy violation has occurred or finds there is insufficient evidence to make such a determination, the complainant may ask the appropriate EOO to review
the investigator’s findings and reconsider. However, if the EOO agrees with the investigator’s findings, there is no further appeal and you will be notified.

**Where can I learn more?**

[https://www.ou.edu/content/eoo/policies.html](https://www.ou.edu/content/eoo/policies.html)