Employee Wishing to Report a Policy Violation
Under the Sexual Misconduct Policy FAQs

Where can I report a potential sexual misconduct, discrimination or harassment violation?

You should report potential policy violations to the Equal Opportunity Officer and Title IX Coordinator, Bobby Mason (405) 325-3546, or the Sexual Misconduct Officer, Kathleen Smith (405) 325-2215 (collectively the “EOO”).

What happens after I file a report?

An investigation will be commenced and the EOO will interview you, the charged individual, and all other relevant witnesses identified by you, the charged individual, or the EOO.

What if I do not wish for a formal investigation to be commenced?

If you indicate that you do not wish to make a formal complaint with the Institutional Equity Office, the EOO may be unable to assist you further. However, depending on the facts and circumstances, additional information may be needed from you to determine whether action must be taken to ensure community safety. If this occurs, you will be notified, and the EOO will take all reasonable precautions to ensure your anonymity.

What forms will I complete?

You will complete a complaint form. Where appropriate for cases involving sexual assault or other potential crimes, you will also be advised of your right to file a police report and you may indicate that at this time you do not wish for police involvement. If you wish future police involvement, you may still seek their assistance; however, the longer you wait to commence a police investigation, the more difficult it is for them to gather evidence necessary for the filing of criminal charges. Also note that depending on the facts and circumstances, the EOO may notify the police regarding the situation.

Will a criminal investigation automatically be commenced?

Not necessarily. Depending on the facts of the case and the age of the victim (e.g. if the victim is a minor, law enforcement is required to commence an investigation involving sexual misconduct or neglect/abuse of a minor; anyone with knowledge of the incident must notify law enforcement and DHS), there is no requirement that criminal investigations be conducted where a victim refuses to cooperate with a police investigation. If you desire a police investigation, you must notify law enforcement immediately so that valuable evidence will not be lost. Note that you are
always free to seek law enforcement assistance and protection even if you initially indicate you do not wish to commence the criminal process. Their ability to assist you may diminish the longer you wait to ask for assistance.

**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, or you may utilize the services of the University’s Ombudsperson, (405) 325-3297. Attorneys and advisers may be present for meetings and hearings, but are not permitted to participate directly.

**What happens next?**

Once the EOO has conducted his/her investigation, he/she drafts a preliminary report and makes a recommendation of findings determining whether, more likely than not, a policy violation occurred. The EOO along with the appropriate executive officer will make a determination whether sufficient evidence warrants additional action be taken, e.g. discipline of the charged employee, etc.

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

If a finding is made, you will receive a letter from the EOO. If the charged individual disagrees with either the findings or the sanctions, he/she 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. On appeal, you have the same rights as those afforded to the charged individual; however, generally, the University becomes the party involved in the appeal and you may be a witness indirectly represented by the EOO.

Should you so choose, you may select panel members from the pool and 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 (written by the EOO; however, should you wish to file a response, you may do so as well). The Chair 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 the area shall determine the appropriate sanction, after discussion with the EOO, and shall notify you of his/her decision (although you may not be entitled to a full explanation of all personnel actions taken). 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. Again, typically the EOO becomes the respondent on appeal and indirectly represents your interests. Should you wish to actively participate in the process, you may do so.

**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 are 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 charged individual 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?**

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