

University of Puget Sound  
Procedures for Responding to Complaints of  
Discrimination and Harassment

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## I. INTRODUCTION

The university will act on any formal or informal notice/complaint of violation of the Policy Prohibiting Discrimination and Harassment that is received by the Equal Opportunity Officer<sup>1</sup> by applying the Procedures for Responding to Complaints of Discrimination and Harassment (hereinafter “Procedures”).

The Procedures apply to all incidents of discrimination or harassment involving students, staff, administrators, or faculty members, excluding those covered by the Policy Prohibiting Sex-Based Discrimination, Sexual Harassment and Sexual Misconduct (“Policy”) or reasonable disability accommodations detailed in the procedure for [students](#) or [employees](#).

Additionally, the Procedures may be used to address related misconduct arising from the investigation of, or occurring in conjunction with, other reported misconduct (e.g., vandalism, hazing, physical abuse of another). All other allegations of behavior unrelated to incidents covered by the Policy may be addressed through procedures described in the [Student Integrity Code](#), [Faculty Code](#), [Code of Conduct](#), or other applicable university policies.

Any individual who is materially involved in the administration of the Procedures must not have a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The university operates with the presumption that Respondent is not responsible for the reported misconduct unless and until Respondent is determined to be responsible for a policy violation.

## II. COMPLAINT PROCESS

Complaints may be filed with the Equal Opportunity Officer through the online form at [www.pugetsound.edu/report](http://www.pugetsound.edu/report) or by contacting the Equal Opportunity Officer. Anyone may make an anonymous report without identifying the reporting party by using the form or by using the university’s [Compliance Helpline](#) at **866.943.5787**. Anonymous reports will be investigated to the extent possible; however, anonymous reports typically limit the university’s ability to investigate, respond, and provide remedies and supportive measures, depending on what information is shared.

All employees of the university, with the exception of individuals who are designated as confidential or privileged resources, are Responsible Employees and must promptly share all known details of a report with the Equal Opportunity Officer.

### A. Initial Assessment

Following receipt of a complaint or report of an alleged violation of the Policy, the Equal Opportunity Officer<sup>2</sup> engages in an initial assessment. The steps in an initial assessment include:

1. Determining whether the allegations are covered by the Policy. If not, and the behaviors may constitute lack of compliance with campus expectations outlined in

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<sup>1</sup> Anywhere this procedure indicates “Equal Opportunity Officer,” the University may substitute an appropriate designee.

<sup>2</sup> The Equal Opportunity Officer will designate another person to oversee the process below should an allegation be made about the Equal Opportunity Officer or should the Equal Opportunity Officer be otherwise unavailable or unable to fulfill their duties.

other published campus policies and codes, the case will be forwarded to the appropriate Administrator.

2. Determining whether [Emergency Action/Interim Measures may](#) be necessary.
3. Working with Complainant to determine their preference for one of the following options:
  - Option #1 - If [Supportive Measures](#) only are preferred (no investigation), the Equal Opportunity Officer works with Complainant to identify their wishes, assess the request, and implement accordingly. A Complainant can change that decision and elect to pursue a formal complaint at a later date; however, delays may cause limitations on access to evidence, or present issues with respect to the status of the parties. The goal is to provide the Complainant with as much control over the process as possible, while balancing the university's obligation to protect its community.

The Equal Opportunity Officer has ultimate discretion over whether the university proceeds when Complainant does not wish to do so, but will only do so when the Equal Opportunity Officer determines formal action is necessary to protect the community and will make best efforts to maintain confidentiality. In making this determination, the Equal Opportunity Officer must also consider the effect that non-participation by Complainant may have on the availability of evidence and the university's ability to pursue a Formal Grievance Process fairly and effectively.

- Option #2 - If an [Informal Resolution](#) option is preferred, the Equal Opportunity Officer assesses whether the complaint is suitable for informal resolution and seeks to determine if Respondent is also willing to engage in informal resolution.
- Option #3 - If a [Formal Grievance Process](#) is preferred, the Equal Opportunity Officer will determine whether the allegations, if true, would violate the Policy. If so, an investigation is initiated. If not, the reported behaviors may nonetheless be of concern and may constitute lack of compliance with university expectations outlined in other published university policies and codes. Any such findings will be referred to the appropriate office for resolution under procedures of the Student Integrity Code, Faculty Code, Code of Conduct or other applicable university policies.

## **B. Supportive Measures**

Supportive measures may be available to both Complainants and Respondents. If requested, the Equal Opportunity Officer will work with the party to provide supportive measures as appropriate (e.g., housing adjustment, withdrawal from class, alternate work location or work schedule, campus no-contact order.) Steps taken and necessary details will be shared only with staff/faculty who have a need to know. In the case of a campus no-contact order, the parties' names must be shared with each other so they can comply.

## **C. Emergency Action/Interim Measures**

The university may take emergency action to partially or fully remove a Respondent upon the completion of a risk assessment which determines that a threat to the health or safety of the university community or other individual justifies removal.

The university will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. These actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning a faculty or staff member, restricting access to or use of facilities or equipment, authorizing an administrative leave, and suspending a student's participation in co-curricular or extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

Violation of an emergency action under this policy will be grounds for discipline, which may include expulsion or termination.

#### **D. Counterclaims**

The university permits the filing of counterclaims but will initially assess whether the allegations in the counterclaim are made in good faith. Counterclaims determined to have been reported in good faith may be investigated separately or through the same investigation as the underlying allegation, at the discretion of the Equal Opportunity Officer.

Counterclaims or false reports made with retaliatory intent will not be permitted. When counterclaims or false reports are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

### **III. SUPPORT PERSONS**

Complainants and Respondents have the opportunity, but are not required to choose a support person to be present with them at all stages of the process, including but not limited to reporting and investigative meetings. Support Persons may be a friend, mentor, family member, attorney, university faculty or staff member or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process as long as that person is not a potential witness.

Complainants and Respondents must provide the Equal Opportunity Officer with a completed consent form at least two (2) business days prior to any meetings or interviews, authorizing the university to share their confidential information with the support person as further described below.

The Equal Opportunity Officer reserves the right to dismiss or remove a support person who does not adhere to the guidelines below or who disrupts or attempts to disrupt the process in any way.

Support person(s) must adhere to the following:

- Support person(s) may not advocate for, represent, or speak on behalf of a Complainant or Respondent;
- Support person(s) may not provide any information, documentation, or serve as a witness in any part of the process;
- All communication will be between the Equal Opportunity Officer and the Complainant/Respondent. A party may request a support person to be copied on correspondence; however, it will be the party's responsibility to directly communicate with the aforementioned staff.

Information in this process is considered confidential. The university expects that the parties may wish to have the university share documentation and evidence related to the allegations with their Support Person. The university will provide a consent form that authorizes the university to share such information directly with their Support Person. The parties must either complete and submit this form to the Equal Opportunity Officer or provide similar documentation demonstrating consent to a release of information to the Support Person before the university is able to share records with a Support Person.

Support Persons must agree to maintain the privacy and confidentiality of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the university. The university may seek to restrict the role of any Support Person who does not respect the sensitive and confidential nature of the process or who fails to abide by the university's privacy expectations.

#### **IV. RESOLUTION PROCESSES**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with university policy. The parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below.

The university will make a good faith effort to complete the resolution process within sixty to ninety (60-90) days, which can be extended as necessary by the Equal Opportunity Officer. The Equal Opportunity Officer will seek to provide updates on the progress of the resolution process, including notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

##### **A. Informal Resolution**

In lieu of a formal process, the Parties may voluntarily agree to resolve the matter through Informal Resolution. Complainant, Respondent, and the Equal Opportunity Officer must consent to the use of an Informal Resolution process. It is not necessary to pursue Informal Resolution first in order to pursue the Formal Grievance process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance process. The Informal Resolution will be negotiated through and approved by the Equal Opportunity Officer.

The terms of an Informal Resolution are unique to each case and all parties (including the Equal Opportunity Officer) may propose terms.

Examples:

- Written or in-person apology
- Educational training
- Complainant receiving first choice of housing and/or classes
- Accepting responsibility for violating the policy
- Withdrawing/restriction from extracurricular activities
- Participation in "healing circles" or restorative conversations
- Probation

- Counseling

The ultimate determination of whether Informal Resolution is available or successful is to be made by the Equal Opportunity Officer. The Equal Opportunity Officer may consider a number of factors in assessing whether Informal Resolution is appropriate and likely to lead to a successful resolution, such as:

1. Likelihood of potential resolution, considering any power inequality between the parties;
2. The parties' motivation to participate;
3. Civility of the parties;
4. Disciplinary history;
5. Complaint complexity;
6. Emotional investment/capability of the parties;
7. Rationality of the parties; and
8. Goals of the parties.

The Equal Opportunity Officer maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions.

When a resolution is accomplished, the Equal Opportunity Officer will ensure the terms are promptly implemented in order to effectively stop the behavior, prevent its recurrence, and remedy the effects of the alleged conduct, both on Complainant and the community.

### **B. Formal Grievance Process (Formal Resolution)**

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that Respondent engaged in prohibited conduct and evidence that supports that Respondent did not engage in prohibited conduct. Determinations will include a credibility assessment which may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The Equal Opportunity Officer serves as the university's primary Investigator. If the Equal Opportunity Officer is unable to serve as Investigator, they will ensure the impartiality of any assigned Investigator, including verifying that there are no actual conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Equal Opportunity Officer will determine whether the concern is reasonable and supportable. If an actual conflict of interest or material bias is determined to exist, another investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the alleged conflict of interest or bias is the Equal Opportunity Officer, concerns should be raised with the Vice President for Student Affairs and Dean of Students at Telephone: 253.879.3360 or dos@pugetsound.edu.

### **(1) Overview of Steps in the Formal Grievance Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses as deemed necessary by the Equal Opportunity Officer; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. Parties have a full and fair opportunity through the investigation

process to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator may choose to conduct interviews in-person or virtually depending upon the circumstances. The university will take appropriate steps to reasonably ensure the security/privacy of remote interviews and no parties other than the interviewee and any support person are permitted to attend or listen. Permitting a party other than a support person to attend or listen to a virtual interview will be considered a violation of the confidentiality requirements outlined in this Procedure.

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator elects to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator, though not preferred.

The Investigator typically takes the following steps, if not already completed:

- a. Meet with Complainant to finalize their interview/statement, if necessary.
- b. Provide written notice of the investigation and allegations (the “NOIA”) to Respondent and Complainant. This facilitates Respondent’s ability to prepare for the interview and to identify and choose a Support Person to accompany them if they wish. The NOIA will include, at a minimum:
  - A summary of the allegations,
  - The date and location of the alleged incident(s) (if known),
  - Name and link to the Policy and Procedure,
  - The name(s) of the Investigator, along with a process to object to the assigned investigator due to a conflict of interest.
- c. Interview all available, relevant witnesses as deemed necessary by the Investigator and conduct follow-up interviews as necessary. Each party will have the opportunity to suggest witnesses for the Investigator to interview.
- d. Provide each interviewed party and witness an opportunity to review and suggest edits to the Investigator’s summary of their interview.
- e. Write a comprehensive investigation report that summarizes all witness interviews, addresses all relevant evidence, and assesses the credibility of the parties and witnesses to arrive at a decision as to whether the preponderance of the evidence (that is, whether it is more likely than not) supports that the Policy was violated. This report is not provided to the parties.
- f. Issue a written Notice of Outcome letter to Complainant and Respondent notifying them of the decision, rationale, and next steps. The link will be restricted to view only access and cannot be shared with others using alternative means (e.g., taking a screenshot.) Separate letters or redactions may be necessary to comply with privacy laws and/or requests for confidentiality.
- g. Appeal period for the investigation phase (see section V)

- h. If there is a finding of responsibility or a finding that the behaviors may constitute lack of compliance with campus expectations outlined in other published campus policies and codes, the case will be forwarded to the appropriate Administrator for sanctioning/discipline after the appeal period expires.

## V. APPEALS

Any party may file a request for appeal, but it must be submitted in writing to the Equal Opportunity Officer within **seven business (7) days** of the delivery of the Notice of Outcome and must clearly identify one or more grounds for appeal.

An Appeal Officer will be designated by the Equal Opportunity Officer. No Appeal Officer will have been involved in the process previously.

### A. Grounds for Appeal

Appeals are limited to the following grounds:

1. Material procedural error: an error that, but for the error, could have resulted in a different decision. Material procedural errors include allegations that the Equal Opportunity Officer or the Investigator did not follow university procedures and such failure materially affected the credibility, reliability, or fairness of the process. The appealing party has the responsibility to demonstrate the effect of the material procedural error.
2. New evidence. The appealing party may allege on appeal that new evidence is available that would impact or alter a decision that was not available at the time of the hearing.
3. Contrary to Law or Policy: The appealing party may allege that controlling material law or university policy was disregarded, misinterpreted, or misapplied to the facts, including that the Equal Opportunity Officer or Investigator had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
4. Clearly Erroneous: A clearly erroneous decision is one that a reasonable person could not have reached, based on the competent evidence in the record taken as a whole and the relevant controlling laws or policies.

The Request for Appeal will be forwarded to the Appeal Officer for initial review and consideration to determine if the request meets the grounds for appeal.

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

If any of the articulated grounds in the Request for Appeal do not meet the criteria above, that request will be denied by the Appeal Officer and the party will be notified in writing of the denial and the rationale.

If any of the articulated grounds in the Request for Appeal meet the criteria, the other party(ies), the Equal Opportunity Officer, and, when appropriate, the Investigator will be emailed a copy of the request with the approved grounds and then be given **seven (7) business days** to submit a response to the portion of the appeal that was approved and involves them.



Neither party may submit any new requests for appeal after this time period. The Appeal Officer will collect any additional information needed and all documentation regarding the request for appeal and the subsequent responses, and render a decision in no more than **seven (7) business days**, barring exigent circumstances.

**B. Appeal Considerations**

1. Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is a clear material error.
2. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
3. Appeal Officer(s) shall not substitute their judgment for that of the original Investigator merely because they disagree with the finding.
4. The Appeal Officer may consult with the Equal Opportunity Officer on questions of procedure or rationale, for clarification, if needed.
5. Appeals granted based on new evidence should normally be remanded to the original Investigator for reconsideration. Other appeals may be remanded at the discretion of the Appeal Officer or, in limited circumstances, decided on appeal.
6. In rare cases where a procedural or substantive error cannot be cured (as in cases of bias), the Appeal Officer may order a new investigation with a new Investigator.
7. The results of a new hearing can be appealed, once, on any of the available grounds for appeal.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal and the rationale supporting the essential findings to the extent the university is permitted to share under state or federal law.

Notification will be made in writing and emailed to the parties' university-issued email or otherwise approved account. Once emailed, notice will be presumptively delivered.

The appeal decision is final, except as otherwise provided in this section.

**VI. DETERMINING SANCTIONS (STUDENTS)/DISCIPLINE (FACULTY OR STAFF)**

If there is a finding of responsibility or a finding that the behaviors may constitute lack of compliance with campus expectations outlined in other published campus policies and codes, the investigation report, outcome determination letter and all underlying information will be forwarded to the appropriate Administrator (listed below) or their designee for sanctioning/discipline. Should the Administrator have a conflict of interest or be a party in the complaint, an alternate Administrator will be identified by the Equal Opportunity Officer. The Administrator will determine and notify the Respondent and the Equal Opportunity Officer of the resulting sanction/discipline and provide an update to the Complainant only to the extent that the results directly impact the Complainant.

- Student Respondents - Director of Student Accountability and Restorative Practices
- Staff Respondents - Human Resources and direct supervisor
- Faculty Respondents - Provost

- Third parties - Equal Opportunity Officer

#### **A. Examples of Sanctions/Disciplinary Actions**

The following examples of sanctions and disciplinary actions described in this section are not intended to provide an exhaustive list, and may be issued in combination with, or independent of sanctions imposed by external authorities. These lists are not intended to be progressive, but are presented in the order of severity.

#### **Student Sanctions**

When a student or student organization is found responsible for violating university policy, typical sanctions include, but are not limited to the following:

1. Educational Sanction: includes, but is not limited to, written research and reflective activities.
2. Conduct Reprimand: A formal statement that the conduct was unacceptable and a warning that further violation of any university policy, procedure, or directive will result in more severe sanctions/responsive actions.
3. Probation: A written reprimand for violation of university policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any university policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
4. Suspension: separation of the student from the university (including premises and activities) for a specified period of time. All fees and academic credits for the semester during which the suspension occurs may be forfeited.
5. Expulsion: permanent separation of the student from the university (including premises and activities). Notation of the expulsion will appear on the student's academic transcript. All fees and academic credits for the semester during which the expulsion occurs are forfeited.
6. Withholding Diploma: The Recipient may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
7. Organizational Sanctions: Conduct reprimand, loss of some or all privileges (including university registration) for a specified period of time, probation (conduct or social), loss of recognition, or removal from campus.
8. Other Actions: In addition to or in place of the above sanctions, the university may assign any other sanctions as deemed appropriate.

#### **Faculty/Staff Discipline**

When a staff or faculty member is found responsible for violating university policy, typical disciplinary actions may include, but are not limited to:

1. Warning – Verbal or Written
2. Performance Improvement Plan/Management Process
3. Enhanced supervision, observation, or review
4. Required Counseling
5. Required Training or Education

6. Probation
7. Denial of Pay Increase/Pay Grade
8. Loss of Oversight or Supervisory Responsibility
9. Demotion
10. Transfer
11. Reassignment
12. Assignment to new supervisor
13. Restriction of stipends, research, and/or professional development resources
14. Administrative Leave or Suspension with/without pay
15. Termination
16. Other Actions: In addition to or in place of the above sanctions/responsive actions, the university may assign any other responsive actions as deemed appropriate.

### **Third-party and Alumni Corrective Actions**

The university may impose temporary or permanent trespass from campus and restrictions on attending or participating in some or all university-sponsored events.

## **VII. FAILURE TO COMPLY**

All Respondents are expected to comply with the terms of an Informal Resolution or the assigned sanctions, discipline, or corrective actions. Failure to abide, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/discipline, including suspension, expulsion, and/or termination from the university and may be noted on a student's official transcript or a faculty/staff member's personnel file.

## **VIII. RECORDKEEPING**

The university will maintain any and all records in accordance with state and federal laws.

## **IX. COMMUNICATION METHOD**

Communications will be delivered by email to the parties' university-issued email or alternate method if email is not available. Once emailed, notice will be presumptively delivered.

## **X. DISABILITIES ACCOMMODATIONS IN THE RESOLUTION PROCESS**

The university is committed to providing reasonable accommodations and support to qualified students, faculty, staff, or others with disabilities to ensure equal access to the university's resolution process.

Anyone needing such accommodations or support should contact the Equal Opportunity Officer who will work with the appropriate office to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are reasonable, appropriate, and necessary for full participation in the process.

## **XI. REVISION OF THIS PROCEDURE**

This Procedure will be periodically reviewed and updated by the Equal Opportunity Officer. The university reserves the right to make changes to this Procedure as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Equal Opportunity Officer may make minor modifications that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Equal Opportunity Officer may also vary procedures materially upon determining that changes to law or regulation require procedural alterations not reflected in this Procedure.

If laws or regulations change – or court decisions alter – the requirements in a way that impacts this Procedure, this Procedure will be construed to comply with the most recent government regulations or holdings.

This Procedure does not create legally enforceable protections beyond the protections of local ordinances, laws of the State of Washington, and federal laws which govern the university's obligations.

These procedures are effective July 2023.

## **XII. RELATED RESOURCES**

[Title IX and Equal Opportunity Website](#)

[Policy Prohibiting Discrimination and Harassment](#)

[Student Integrity Code](#)

[Faculty Code](#)

[Staff Corrective Action Policy](#)

[Code of Conduct](#)

[Disability Accommodations for Students](#)

[Disability Accommodations for Employees](#)