

PROCEDURE TITLE:	ASSESSING, INVESTIGATING, AND ADJUDICATING COMPLAINTS PRESCRIBED BY VARIOUS STATUTES
PROCEDURE NO.:	5.10:2
RELATED POLICY:	5.10
PAGE NO.:	1 OF 8
RESPONSIBLE OFFICER(S):	GENERAL COUNSEL
EFFECTIVE DATE:	10/13/2025
NEXT REVIEW DATE:	10/2030
APPROVED BY:	PRESIDENT

1.0 PURPOSE AND SCOPE

- 1.1 The Ohio General Assembly, in various statutes, requires that institutions of higher education assess, investigate, and adjudicate complaints (hereinafter, collectively or individually referred to as “statutory complaints”), including:
 - 1.1.1 Complaints by students, student groups, faculty, staff, or invited guests that they were subject to retaliation on account of the exercise of the right to free expression prescribed in Ohio Revised Code section 3345.0215;
 - 1.1.2 Complaints by students or employees that an administrator, faculty member, staff member, or student interfered with intellectual diversity rights prescribed in Ohio Revised Code section 3345.0217;
 - 1.1.3 Complaints by a student that a student, staff member, or faculty member was subjected to racial, religious, or ethnic harassment or intimidation proscribed by Ohio Revised Code section 3305.20; and
 - 1.1.4 Complaints under Ohio Revised Code section 3345.88, including that a University position, policy, program or activity fails to treat individuals equally regardless of their race, ethnicity, religion, sex, sexual orientation, gender identity, or gender expression.
- 1.2 Statutory complaints against an employee whose terms and conditions of employment are governed by a collective bargaining agreement (CBA) that sets forth procedures to assess, investigate, and adjudicate complaints against a member shall follow the CBA procedures.
- 1.3 Statutory complaints against employees that do not fall under section 1.2, and statutory complaints against students shall be governed by the procedure below.

2.0 DEFINITIONS

2.1 As used in this procedure:

- 2.1.1 *Anti-Christian Discrimination* means discrimination against any person on the basis of their Christian faith or their practice of Christianity. It encompasses any form of negative treatment, behavior, or policy that disadvantages individuals based on their Christian faith or beliefs.
- 2.1.2 *Antisemitism* means a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.
- 2.1.3 *Business days* means calendar days that are not a) weekend days, b) University-recognized holidays, c) days the campus is closed for holiday break, or d) when a complainant or respondent is a student or faculty member, weekdays that are part of spring break or fall break.
- 2.1.4 *Complainant* means the individual or group who alleges they were subject to a statutory violation .
- 2.1.5 *Expression* shall mean any speech by verbal, written, or electronic means, including protests, assemblies, speeches, literature distribution, and the circulation of petitions.
- 2.1.6 *Harassment* means unwelcome conduct that is so severe, pervasive, and objectively offensive that it denies an individual equal access to the individual's education program or activity.
- 2.1.7 *Human Resources* shall mean the Executive Director of Human Resources, or designee, or another official of the Office of Human Resources to whom the Executive Director or designee has either generally delegated the authority to act under this procedure, or delegated such authority for a particular matter.
- 2.1.8 *Islamophobia* means a fear, prejudice, and hatred of Muslims that leads to provocation, hostility, and intolerance by means of threats, harassment, abuse, incitement, or intimidation of Muslims and non-Muslims.

- 2.1.9 *Intimidation* means conduct in violation of Ohio Revised Code section 2927.12.
- 2.1.10 *Parties or the Parties* means the Complainant and Respondent.
- 2.1.11 *Preponderance of the evidence* means the greater weight of the evidence required in a civil (non-criminal) lawsuit for the trier of fact (jury, or judge in non-jury trial) to decide in favor of one side or the other.
- 2.1.12 *Probable Cause* means knowledge sufficient for a reasonable person to believe that an individual has committed a violation of University policy.
- 2.1.13 *Respondent* means the individual who, according to a written complaint, allegedly committed a statutory violation.
- 2.1.14 *Retaliation* means taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right to free expression as set forth in Policy 5.10, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Policy 5.10 or this procedure.
- 2.1.15 *Statutory violation* means any act in violation of section 1.1.1, 1.1.2, 1.1.3, or 1.1.4.

3.0 COMPLAINTS

- 3.1 It is encouraged that individuals report allegations of statutory violations promptly. Statutory complaints may be made either to Human Resources or through the University's Maxient complaint system (<https://www.shawnee.edu/complaint>) or any similar system the University may use in the future. Complaints shall be directed as follows:
 - 3.1.1 Statutory complaints in which the Respondent is a faculty member who is subject to a collective bargaining agreement (CBA) shall be directed to the Respondent's academic Dean;
 - 3.1.2 Statutory complaints in which the Respondent is any other employee shall be directed to Human Resources.
 - 3.1.3 Statutory complaints in which the Respondent is a student shall be directed to the Dean of Students.

- 3.1.4 Any complainant who believes he or she was the victim of a crime should report the matter to the Department of Public Safety. Such a report will not affect the assessment, investigation, and adjudication of the non-criminal statutory violation under this procedure.
- 3.2 Complaints filed more than thirty (30) days after the occurrence of the conduct that is the subject of the complaint are subject to summary dismissal, except in cases where exigent circumstances are found.
- 3.3 Complaints must be in writing and signed by the complainant to trigger the University's duty to investigate the matter and provide the complainant with a hearing. The written complaint must specifically identify the individual alleged to have committed the statutory violation (Respondent); the conduct alleged to constitute a violation; and the actual or approximate date(s) and time(s) of the alleged violation. Only complaints that meet the requirements contained in this paragraph will be addressed by the University. However, an exception to the written complaint requirement applies to complaints under section 1.1.3 which, per statute, may be filed anonymously.

4.0 DISMISSAL OF COMPLAINT

The individual to whom a statutory complaint is directed is authorized to dismiss the complaint when on the face of complaint, it is clear that no violation of section 1.1.1, 1.1.2, 1.1.3, or 1.1.4 occurred.

5.0 PROCESSING OF COMPLAINT/MEDIATION OPTION

- 5.1 The procedures set forth in this section and the following sections shall be used when a complaint has not been dismissed under section 4.0, above.
- 5.2 Upon receipt of a complaint, Human Resources or the Dean of Students ("Responsible Officer") shall promptly name an investigator. The Responsible Officer shall also provide the Complainant and Respondent with copies of the complaint, a copy of the statute which is the basis of the allegation, a copy of this procedure, and the name of the investigator.
- 5.3 The Responsible Officer may offer the Parties the opportunity to resolve their differences through mediation. If the parties consent to mediation in writing, the Responsible Officer will appoint a mediator, who shall work with the parties to arrange a date, time, and location for the mediation. Neither the Complainant nor Respondent may be required to engage in mediation, nor shall they be required to forego any right to a hearing. Any party may revoke their consent to mediation at any time prior to resolution. The mediator may exercise their discretion to

terminate mediation when they determine that doing so is in the best interests of the University to resolve the dispute.

- 5.4 If, following mediation, both parties are satisfied that the matter has been resolved, the mediator shall notify the Responsible Officer who referred the matter, and the case will be terminated. If, following mediation, one or both parties are not satisfied that the matter has been resolved, the mediator shall so notify the Responsible Officer and the investigation and hearing procedures set forth below shall be followed.

6.0 INVESTIGATION

- 6.1 When a complaint under this policy proceeds to an investigation, the Responsible Officer shall appoint an investigator who has been trained in conducting investigations and is free from bias and any conflict of interest in the matter.
- 6.2 The investigator shall individually contact the Complainant and Respondent and request (i) information about individual(s) they believe have relevant information based on their personal knowledge of the subject matter of the complaint (potential witnesses), and (ii) any documents, audio or video recordings, or other records in fixed form (including electronic records) the party believes are relevant to the complaint. Within five (5) business days of receiving the request, the party shall provide to the investigator copies of the items referenced in (ii), above, and the names and contact information about potential witnesses, as well as a description of the matters of which the potential witnesses have personal knowledge.
- 6.3 The investigator shall make reasonable best efforts to interview the Complainant, the Respondent, and potential witnesses within thirty (30) business days of their being identified. An employee who without justification refuses to participate in an investigation may be subject to discipline. The University will attempt to obtain witness interviews as requested by the parties. The investigator may exercise discretion to limit the number of potential witnesses interviewed when it is obvious they do not have information that is material to the question of whether a statutory violation under this procedure occurred. Witness interviews may also be limited to avoid redundancy. The investigator shall review the documents supplied under subsection 6.2(ii), and will direct questions to interviewees about such documents as appropriate.
- 6.4 If, at the conclusion of the investigation, the investigator concludes in their report that there is probable cause that a statutory violation occurred, they shall notify Human Resources or the Dean of Students, as appropriate.

- 6.5 In cases brought under section 1.1.1, the investigator shall recommend that the Responsible Officer dismiss the complaint if the investigation concludes that the alleged conduct that is the subject matter of the complaint was:
 - 6.5.1 In response to expression not protected by the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution; or
 - 6.5.2 In response to speech that was unwelcome and was so severe, pervasive and objectively offensive that it effectively denied an individual equal access to the individual's education program or activity; or
 - 6.5.3 A legitimate restriction on expression, such as:
 - 6.5.3.1 A constitutional time, place, and manner restriction;
 - 6.5.3.2 A reasonable and viewpoint-neutral restriction in a nonpublic forum;
 - 6.5.3.3 A campus restriction designed to protect free speech rights of students and teachers and preserve the use of the property for the advancement of the institution's mission; or
 - 6.5.3.4 A content restriction on speech reasonably related to a legitimate pedagogical purpose, such as a classroom rule enacted by a teacher.

7.0 THE HEARING AND RESOLUTION

- 7.1 Upon receipt of an investigator's report that concludes there was probable cause of a statutory violation, Human Resources shall appoint a Hearing Officer who has sufficient training and/or experience in conducting fair hearings and shall promptly notify the parties of the appointment. The notice shall also include a range of potential sanctions that could be imposed upon a finding that a statutory violation occurred.
- 7.2 The Hearing Officer shall work with the parties to schedule a hearing at a date and time that is convenient for them. Each party is responsible for arranging the attendance of their own witnesses at the hearing.
- 7.3 In advance of the hearing, the Hearing Officer will review the investigation report. In all hearings, the Hearing Officer shall question the Complainant and witnesses identified by the Complainant and then will question the Respondent

and witnesses identified by the Respondent. The hearing officer has discretion to allow or disallow remote or virtual testimony. No party or witness who declines to testify will be compelled to do so.

- 7.4 In cases in which Responsible Officer notified an employee Respondent that sanctions could include suspension, demotion, or termination, or notified a student Respondent that sanctions could include actual (not deferred) suspension or dismissal, each party or their advisor, when applicable, shall have the opportunity to cross-examine each opposing party and witness in the manner discussed in section 8.2.4, below.
- 7.5 The hearing will not include opening statements or closing arguments.
- 7.6 After all parties and witnesses have been questioned (and cross-examined, when applicable), the hearing officer shall determine whether the complainant proved that a statutory violation occurred by a preponderance of the evidence.
- 7.7 The hearing officer shall make written recommendations of a resolution to the President, including the material factual findings supporting the recommendation. The President shall make the final determination of responsibility and final resolution, including a sanction when it is deemed warranted. Any sanction shall be commensurate with the seriousness of the statutory violation.
- 7.8 Possible sanctions for an employee Respondent include verbal counseling, a verbal reprimand, an advisory letter, a written warning, placement on a Performance Improvement Plan (PIP), suspension from employment, or termination. Possible sanctions for a student Respondent include one of or a combination of any of the following: community service, restitution, removal or reassignment from University housing, no-contact order, official warning, educational or remedial sanctions, disciplinary probation, deferred suspension, suspension, or dismissal.
- 7.9 The investigator and hearing officer shall not schedule interviews or hearings that conflict with students' or faculty members' class schedules or other academic commitments. Non-faculty employees shall be permitted to attend interviews and/or hearings during the regular workday and shall not be required to take paid or unpaid leave for their attendance.

8.0 ADVISORS

- 8.1 The complainant and respondent have the right to have, but are not required to have, an advisor, who may or may not be an attorney, at, as applicable, mediation, that party's investigatory interview, and the hearing. An advisor may be removed

from any of these proceedings at the University's discretion if they unreasonably interject or interfere with the proceeding. If any party is accompanied by an advisor who is an attorney, the University may have legal counsel present to advise the investigator or hearing officer.

8.2 The role of an advisor will be limited to the following:

- 8.2.1 At mediation, consulting privately with their advisee outside the mediation room, and proposing resolutions on behalf of the advisee in the mediation room;
- 8.2.2 Obtaining a copy of the investigation report at the request of their advisee;
- 8.2.3 Objecting to any question at an investigatory interview or hearing only if it would require the advisee to disclose information that is protected by a privilege or constitutional right; and
- 8.2.4 At a hearing, proposing questions, including questions on cross-examination, for the hearing officer to ask an opposing party or a witness identified by the opposing party, after which the hearing officer will determine whether the question would be relevant and if so, how the question will be worded. The hearing officer and not the advisor will pose the question to the party or witness. The hearing officer may disallow questions that are inappropriate, harassing, intimidating, irrelevant or redundant. An advisor may not directly question any witness or party. An advisor also may not answer questions on behalf of their advisee or provide factual information at the hearing.

9.0 ACCOMMODATIONS FOR SUMMER SCHEDULES

This section shall apply only when a complaint is filed near or shortly after the completion of the Spring Semester and the complainant and/or respondent is either 1) a faculty member who is not teaching in-person summer classes, or 2) a student who is not taking in-person summer classes. In such instances, to accommodate the parties' on-campus schedules, the timeframes set forth in this Procedure shall be equitably adjusted in a manner that will not unduly delay resolution of the complaint.

History

Effective: 10/13/2025

Revised: 11/21/25