



OHSU POLICY MANUAL

Policy Number: 01-50-025

Policy Title: STANDARD PRACTICE FOR INVESTIGATIONS INTO MISCONDUCT

Effective Date: September 25, 2023

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1. **Generally**

This policy outlines OHSU's procedural commitment to: (1) eliminating, preventing, and addressing the effects of Misconduct; (2) fostering an environment where all individuals are well-informed and supported in reporting Misconduct; (3) providing a fair and impartial process, including constitutionally required due process where applicable, for all parties in investigations into Misconduct; and (4) identifying the general procedures by which alleged violations of University policies involving Misconduct will be evaluated. Nothing in this policy shall supersede or alter reporting, discipline, and/or investigation requirements under existing collective bargaining agreements, bylaws, policies, regulations or laws.¹

2. **Definitions**

A. **Misconduct:** Conduct in violation of OHSU's Discrimination, Harassment and Retaliation Policy; Workplace Violence Policy; Prohibition on Bullying Policy; Conduct Relating to Students – Proscribed Conduct; and/or sections 1.1 and 2.3 of the OHSU Code of Conduct, i.e., professional and respectful interactions. Misconduct for purposes of this policy includes Discriminatory Misconduct as defined in Policy 03-05-048, Discrimination, Harassment and Retaliation, which the Office of Civil Rights Investigations and Compliance (OCIC) exclusively investigates.

B. **Responsible Offices:** The following offices may investigate allegations of Misconduct and may initiate disciplinary, dismissal or exclusion processes based upon investigatory findings: OCIC; Human Resources; OHSU Integrity Office; and the individual schools or college.

3. **Investigation Responsibilities**

In general, the following Responsible Offices will investigate the corresponding Misconduct, although Responsible Offices should coordinate and collaborate to determine who has primary responsibility for Misconduct investigations.

¹ These include obligations under Title IX, the Clery Act, and the Health Information and Quality Authority.

- A. OCIC will investigate Discriminatory Misconduct.
- B. Human Resources will investigate Misconduct by employees and in some circumstances, volunteers, visitors or third-party contractors.
- C. OHSU Integrity Office will support other Responsible Offices and may investigate Misconduct when investigation by other Responsible Offices is inappropriate or burdensome.
- D. Individual schools and college policy will dictate who within the school or college investigates student Misconduct.

4. Investigation Procedures

- A. Using the template manual referred to in section 2.B., Responsible Offices should develop and publish standard operating procedures, that describe the general procedures for evaluating alleged Misconduct and which should provide for:
 - 1) Appropriate coordination and communication with other investigative offices.
 - 2) Notice to the reporting party when an investigation is opened of both the investigation and the investigatory procedures of the Responsible Office.
 - 3) Notice to any responding party, of both the investigation and the investigatory procedures of the Responsible Office and opportunity for a responding party to respond to the allegations of Misconduct. Depending on the individual investigation, notice to the respondent may occur later in the investigation.
 - 4) Procedures to provide status updates to reporting and responding parties during the pendency of the investigation.
 - 5) Notice to the reporting and responding parties regarding findings of fact and determinations of whether OHSU Policy or the Code of Conduct was violated. Any notice will comply with FERPA and any other regulations regarding student educational records.
 - 6) If corrective action is recommended, a means to document and record that recommendation and initiate disciplinary, dismissal or exclusion processes if appropriate.
 - 7) In certain situations, the Legal Department may assume responsibility for investigations and instruct other OHSU personnel to gather information for the investigation. In such cases, the assigned investigator(s) will

follow counsel's instructions relating to communications and evidence to ensure that "attorney-client" and "attorney work product" privileges are preserved.

- B. OHSU's Legal Department shall provide a template manual for the process of investigations required by these procedures. The template manual will provide guidance on best practice for investigations and ensure consistency across administrative and academic departments, but allow Responsible Offices to tailor procedures to their areas of responsibility. The Legal Department serves as a resource for guidance, advice and counsel on these matters and any others related to investigations.

5. **Supportive Measures, Interim Actions and Remedial Measures**

Regardless of whether any Responsible Office initiates an investigation, a process, or substantiates Misconduct, OHSU may:

- A. Provide supportive measures to the reporting and responding parties as appropriate and as reasonably available. In deciding which supportive measures to implement, OHSU will attempt to mitigate the impact on affected parties, while also balancing the rights of all parties involved.
- B. Implement Interim Action(s) while an investigation and adjudication occurs. Any Interim Action should protect the integrity of the investigation, prevent the recurrence of the alleged behavior and/or disruption to OHSU, and/or prevent retaliatory behaviors. The specific interim action(s) implemented will vary depending on the circumstances of each report. In some instances, the university may share information regarding such interim measures with a reporting party, or other appropriate individuals, on a need-to-know basis, such as for safety planning. Interim actions for employee respondents may include administrative leave or changing reporting lines. For students, interim actions may also include removal from campus and/or from some or all programs or activities.
- C. Determine whether additional remedies for the parties or the OHSU community are necessary to restore and preserve equal access to OHSU's education programs and activities or to maintain a respectful workplace. Examples of such remedies may include the initiation or continuation of supportive measures (which may include leaves of absence, modifications to work schedules, safety planning, information and assistance regarding employee and student resources, and/or other reasonable measures), facilitated dialogue, and/or training for members of the OHSU community, as well as modifications to academic, employment, or patient care conditions or assignments. Remedial, non-disciplinary action may also be taken where the alleged conduct does not

constitute a policy violation, but additional incidents or escalation of conduct could give rise to a policy violation.

6. Responsibility for Other Investigations

Guidance for investigations not involving Misconduct, as defined above, shall be provided by the following policies:

- A. Policy 04-15-005, Research Misconduct;
- B. Policy 07-30-025, Investigation of Potentially Criminal Conduct²;
- C. Policy 12-70-010, Authorship Attributions.

Related Documents:

Policy 02-30-010, Conduct Relating to Students – Proscribed Conduct

Policy 03-05-048, Discrimination, Harassment and Retaliation

Policy 03-05-060, Prohibition on Bullying

Policy 07-30-025, Investigation of Potentially Criminal Conduct

External Links/Relevant References:

Title IX of the Education Amendments of 1972 to the Civil Rights Act of 1964

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

Health Information and Quality Authority

**Responsible Offices: Office of Civil Right Investigations and Compliance (OCIC);
Human Resources; OHSU Integrity Office, Student Affairs**

² OHSU Public Safety investigations adhere to ORS 353.125, Policy 07-30-025, the Clery Act, and other Public Safety protocols.