EQUAL OPPORTUNITY INCIDENT CHECKLIST - HUMAN RESOURCES

The Office of Equal Opportunity Programs (“EOP”) provides the following Equal Opportunity Incident Checklist (“EO Incident Checklist”) for Human Resources professionals. The purpose of the Checklist is to provide you with concrete guidance as to how to address EO Incidents reported to you.

An EO Incident is conduct that could constitute a violation of the University’s Preventing and Addressing Discrimination and Harassment Policy (“PADH Policy”) or Preventing and Addressing Retaliation Policy (“PAR Policy”). Potential EO Incidents include allegations of discrimination, harassment, and/or retaliation on the basis of a protected characteristic. ¹ Allegations of EO Incidents must be responded to in a prompt and effective manner.

As the office charged with enforcing the PADH and PAR Policies on behalf of the University, EOP maintains both informal and formal Complaint Procedures to address EO Incidents. Though not required, in most circumstances, potential complaints of EO Incidents may and should be resolved informally, at the lowest level, through the administrative structure of the employment unit or academic department. Most allegations of EO Incidents need not rise to the level of a formal EOP complaint unless a complaining individual wishes to file a formal complaint. ***Exception: allegations of physical violence, sexual assault or violence, touching of a sexual nature, or other severe behavior, may never be resolved informally and must be immediately referred to EOP.***

To facilitate consistent and effective responses to EO Incidents across the University, EOP provides the following EO Incident Checklist. While the Checklist represents best practices for responding to EO Incidents, extraordinary circumstances may arise which require deviation from this Checklist. The EO Incident Checklist is not intended to replace common sense and good judgment. When in doubt, immediately contact EOP at 4-3200.

INTAKE

☐ Upon receiving a complaint of an EO Incident, schedule an intake interview with the complaining individual.

☐ Conduct intake interview with complaining individual:
  ☐ Advise individual about confidentiality and anti-retaliation policy.
  ☐ Obtain basic facts (who, what, where, when).
  ☐ Determine if a protected characteristic is involved. If not obvious, ask the complaining individual why he/she thinks the accused individual is engaging in the alleged behavior.
    ☐ If a protected characteristic is involved, inform the individual of the PADH and PAR Policies and his/her right to file a complaint with EOP if he/she chooses. Provide individual with EOP contact information and complaint procedures.
    ☐ If a protected characteristic is not at issue, advise individual of other options for resolution, i.e.: manager or supervisor, departmental/school HR, UHR, the University Ombudsman, Respect@UVA, Faculty and Employee Assistance Program.

☐ Determine how the complaining individual would like to resolve the situation and if an informal resolution is feasible (mediation, etc.).

☐ Provide complaining individual with information regarding resources available to him/her. If the individual is a student, provide contact information for the Office of the Dean of Students. If the individual is an employee, provide contact information for the Faculty and Employee Assistance program.

¹ Race, color, age, mental or physical disability, sex (including sexual harassment and pregnancy), ethnicity or national origin, religion, marital status, veteran status, sexual orientation, or family medical and genetic information.
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CONSULTATION & COORDINATION

- If a **protected characteristic** is potentially involved, EOP must be consulted, even if the individual wishes to resolve the concern informally. Contact EOP to:
  - Provide EOP with information necessary to open an internal EOP contact file.
  - Discuss which office should address the complaint and next steps, such as whether EOP will investigate the complaint or whether HR should take steps to resolve the concern informally through mediation, factual inquiry, etc.²
  - Determine whether any interim measures are necessary to protect the complaining individual.

- If, in consultation with EOP, it is determined that an EOP investigation is not necessary or proper, but a department level factual inquiry into the concern is appropriate, conduct inquiry as outlined in the next section.

- Coordinate with other offices and departments as needed to implement interim measures, if any.

INQUIRY BY HR

- Notify the complaining individual and the accused, individually, that you will be looking into alleged conduct.

- Meet with the complaining individual (if appropriate) and the accused, separately, to:
  - Advise of the University's anti-retaliation policy and confidentiality.
  - Obtain all pertinent facts.
  - Request lists of witnesses with information.
  - Collect any relevant documents.

- Interview witnesses:
  - Advise each witness of confidentiality and anti-retaliation policy.
  - Request that the witnesses not speak about the inquiry.
  - Maintain interview notes.

- Determine whether evidence establishes that a violation of HR Standards of Conduct occurred and recommend appropriate remedial/disciplinary actions, if any.³ Contact EOP to discuss the outcome of the inquiry. **If the inquiry reveals evidence that a protected characteristic (e.g.: inappropriate behavior of a sexual nature) was involved, EOP must be consulted before issuance of findings and/or discipline.**

RESOLUTION & REMEDIATION

- Notify the complaining individual, accused, and management of outcome of the inquiry in writing.
- Implement discipline, if any.
- Coordinate with administrators/managers regarding recommendations, if necessary.

FOLLOW-UP

- Follow-up to ensure that remedial/disciplinary recommendations are fulfilled.
- Contact EOP once discipline and recommendations, if any, are implemented and case is closed.
- Check-in with complaining individual to ensure situation is resolved.
- Monitor workplace for retaliation against complaining individual and witnesses.
- Maintain ALL interview notes, documents considered, email communications and written findings in a file for 3 years, unless otherwise advised by EOP or the Office of the General Counsel.

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² EOP and the HR professional will jointly decide which office should address the complaint based on (1) whether the individual has filed a complaint with EOP; (2) the nature and severity of the allegations; (3) the complaining individual's expressed wishes; (4) whether the alleged conduct falls under EOP's jurisdiction; (5) the history of prior similar conduct by the accused, if any; and (6) any other pertinent considerations.

³ DO NOT determine whether the evidence establishes that the alleged conduct constitutes a violation of the University's Policies against Discrimination and Harassment or Retaliation. EOP is the only office with the authority to issue such findings.