The Procedures for Responding to Discrimination and Harassment Reports Involving Student Respondents applies to both Duke University and Duke Health (Duke) and is maintained and revised by Duke’s Office for Institutional Equity.

Procedures for Responding to Discrimination and Harassment Reports Involving Student Respondents

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I. Overview

Duke is committed to encouraging and sustaining a learning and living community that is free from harassment, violence, and prohibited discrimination. The Office for Institutional Equity (OIE), in consultation with the Office of Student Conduct and Community Standards (OSCCS), has developed these Procedures for Reporting and Responding to Complaints of Discrimination, Harassment, and Related Misconduct Involving a Student as the Respondent (“Student Procedures”). Further, Duke conducts extensive education and awareness programs with the goal of preventing and discouraging sexual/gender violence and other forms of sexual misconduct.

These Procedures outline reporting, investigation, and report resolution procedures in cases where it is alleged that a Duke student (undergraduate, graduate, professional, doctoral or any student enrolled in any Duke program) is alleged to have engaged in Prohibited Conduct as defined in the Policy Prohibiting Discrimination, Harassment and Related Misconduct (Policy) against anyone (e.g., a student, employee, or third party such as a visiting athlete, guest speaker, or contractor). Formal complaints of Title IX Sexual Harassment are addressed under the Title IX Sexual Harassment Grievance Procedures.

These Procedures describe to whom violations of this Policy should be reported; avenues for confidential reporting; immediate/supportive/long-term measures available to the complainant and the respondent; and how Duke will investigate and resolve alleged violations.

Individuals with disabilities may request reasonable accommodations during the investigative process. OIE will consult with the Disability Management System determine what accommodations might be appropriate based on documentation provided by the individual to OIE or to the Disability Management System directly regarding the nature of the disability and its impact on the individual’s ability to participate in the proceedings.

II. Reporting Prohibited Conduct

In general, Duke provides two ways to raise concerns about possible Prohibited Conduct by a student: Confidential Resources and Non-Confidential Reporting Options.

Confidential Resources are detailed in the Policy. Contacting a Confidential Resource does not constitute making a report to Duke.

Making a non-confidential report of Prohibited Conduct means that OIE (or designee, with oversight by OIE) will contact the Complainant to offer resources and support, and to identify the appropriate action to respond to the report as outlined in these procedures. To make a report of alleged Prohibited Conduct by a student, individuals are encouraged to contact:

Office of Student Conduct and Community Standards
200 Crowell Hall
Box 90893
Durham, NC 27708-0893
When making a report, an individual should identify the complainant, the respondent, and the specific allegations of the Prohibited Conduct. A report may be made either orally or in writing. A complainant may request that Duke investigate a report of Prohibited Conduct by filing a complaint with OIE.

III. Initial Response to Report

Once a report is received, OIE/OSCCS will contact the Complainant to offer resources and support, and to discuss appropriate action to respond to the report. The actions may include but are not limited to:

- Supportive Measures
- Alternative Resolution
- Investigation
- Adjudication through the disciplinary process

A complainant may request that OIE not reveal the complainant’s identity in responding to a report. A complainant may also request that Duke take limited or no action in response to a report.

Staff in OIE will confer with OSCCS about the request and inform the party of the extent to which confidentiality may be maintained. Duke will attempt to preserve the confidentiality of the complainant and/or respect a request for limited or no action in response to a report except when, in Duke’s judgment, doing so would jeopardize the safety of members of the Duke community (including the complainant) or where Duke is required by law to disclose the information (such as in response to a legal process).

OIE will collaborate with complainants and respondents to implement supportive measures (counseling, housing/academic accommodations, “no contact” directives, etc.) to meet the needs of both parties during and after the process. OIE will determine the appropriate duration of supportive measures, which will be time-limited in most cases.

Parties have the right to (and are strongly encouraged to seek) counseling and support available through support services such as Counseling & Psychological Services (CAPS), DukeReach, or other Duke and
local resources.

IV. Timelines

Generally, OIE will seek to resolve all reports within one academic semester, depending on when the report is received.

When a report results in an investigation, the formal investigation process will generally take no longer than 90 business days from the date of the notice of investigation.

In extenuating circumstances, OIE has authority to extend timelines. In the case of such an extension, OIE will notify the relevant parties of the extension. Examples of extenuating circumstances include, but are not limited to, the complexity of the case, delays due to holiday or academic breaks, the unavailability of parties or witnesses, and inclement weather or other unforeseen circumstances. The phrase “business days” does not include weekends or Duke holidays.

V. Advisors

The complainant and respondent have access to trained Student Process Advisors, upon request, to guide them through the process, or an advisor of their choice. The complainant and respondent may consult with anyone they wish (including an attorney) during any stage of this process. One advisor of the complainant’s/respondent’s choice (either the Student Process Advisor or another advisor of their choice) may accompany the complainant/respondent to any meeting with OIE or OSCCS staff, including the investigator, and to a hearing. The advisor’s role in any interview, meeting, Adaptable Conflict Resolution or hearing is limited to quietly conferring with the complainant or respondent through written correspondence or whisper, and the advisor may not address any other participant or the hearing panel. An advisor may not also be a witness.

VI. Adaptable Conflict Resolution

Either party may request, or OIE, in conjunction with the OSCCS and in its discretion, may offer the parties the opportunity to resolve a report using OSCCS’s Adaptable Resolution, which includes Resolution through Agreement, Restorative Justice Practice, or Mediation. Both parties must agree to participate in Adaptable Conflict Resolution. Once Adaptable Conflict Resolution is agreed to by all parties, the final resolution is binding, and a formal complaint generally may not be filed later about the same matter. Should the Adaptable Conflict Resolution not be successful, the complainant may initiate/resume the investigation and hearing process.
VII. Formal Investigation

The Office for Institutional Equity (OIE) will review the report to determine the most appropriate manner for responding to the allegations. 1 At any time prior to the conclusion of the investigation, the complainant may withdraw a request for investigation. However, if the allegations or information obtained through the investigation raise issues of potential serious concern to the Duke community or for other compelling reasons, OIE may nonetheless proceed with an investigation. Whether the circumstances warrant an investigation in the absence of a report or the further participation of the complainant is in the discretion of OIE.

Once a report is accepted for investigation, OIE shall issue notice of investigation, and assign the matter to an investigator. The investigator will schedule interviews with the Complainant and Respondent in order to review the disciplinary process and to gather facts relevant to the allegations contained in the notice of investigation. The investigator will also interview witnesses identified by the parties and the investigator as likely to have relevant information about the allegations contained in the notice of investigation. Where the investigator deems necessary, they may interview an individual more than once. Before any interview, the individual being interviewed will be informed in writing of the date, time, location, participants, and purpose of the interview. Such notice will be provided with sufficient time for the individual to prepare for the interview.

After collecting information, the investigator will submit a written report of relevant information to OIE and OSCCS staff for review as to completeness and relevance, and direct further investigation as necessary before the report is shared with the complainant and respondent.

OIE staff, or the hearing panel, as appropriate, may exclude and/or redact:

- Information that has no bearing on a fact at issue in the case, is more prejudicial than probative, or is duplicative;
- Prior or subsequent sexual activity, unless the previous or subsequent behavior (as shown by witness testimony and/or past school disciplinary findings) was substantially similar to the conduct at issue or indicates a pattern of behavior and substantial conformity with that pattern;
- Medical or mental health information, treatment and/or diagnosis, unless relevant to a fact at issue in the case;
- Sensitive personally identifying information (e.g., social security numbers, contact information, etc.).

Polygraph examinations and/or their results are neither admissible nor considered in any part of the process. Character witnesses are also not permitted.

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1 Some allegations may clearly fall outside the scope of policies implemented by OIE. See Section III of the Policy. In such cases, OIE may refer the matter to the OSCCS, Human Resources Staff and Labor Relations, the department, or other Duke office or administrator. In these instances, OIE will, to the extent possible, notify the complainant of such. If a matter includes issues within the scope of OIE’s policies as well as involving other Duke policies, the appropriate administrators will work together to determine how to handle the matter, including whether one office or the other can handle the entire matter.
The draft investigation report will be shared with the complainant and respondent, who then have five (5) business days to respond in writing to the report with any clarifications, additional witnesses requested to be interviewed (including a brief summary of information each witness would provide), or other relevant information. The complainant and respondent must also submit in writing by that time the names of any witnesses the complainant/respondent wishes to testify (should the matter proceed to a hearing) and a summary of information each witness would provide through their testimony. Names of witnesses provided by the complainant/respondent will be shared with the other party.

The investigator will review the feedback to the report, interview additional relevant witnesses (as the investigator deems appropriate), and make changes/additions to the report as determined by the investigator. After the five-business-day deadline, the complainant and respondent may not provide any additional written information for the hearing packet or hearing, unless that information was not reasonably available prior to the closing of the 5-day window. The decision maker or OIE, as appropriate, determines whether to grant exceptions to this 5-day deadline.

OIE will determine what, if any, final changes or additions are made to the investigator’s report based upon its review of the report and feedback as described above from the complainant and respondent.

OIE, in consultation with the OSCCS, will determine whether to proceed to a hearing based on its assessment of whether there is sufficient information to believe that a policy violation may have occurred. OIE will convey this decision in writing to the complainant and respondent as applicable, who may ask that OIE reconsider its decision.

When OIE decides that a case should proceed to a hearing, the case will be forwarded to OSCCS for resolution. OSCCS may resolve the case either through the Adaptable Conflict Resolution method and/or disciplinary hearing. The types of resolutions and/or applicable hearing procedures can be found here: https://students.duke.edu/get-assistance/community-standard/resolution/. If this matter is referred to a disciplinary hearing, the decision maker(s) will use a “preponderance of evidence” (more likely than not) standard. A list of possible sanctions imposed for Policy violations can be found here: https://students.duke.edu/get-assistance/community-standard/outcomes-appeals/.