

Resolution to clarify process for review of allegations of discrimination by faculty.

Professional Relations Committee

Faculty Senate

May 7, 2018—Second Reading

*Whereas, the university's process for review of allegations of **discrimination (violations of policy 40.001)** against faculty can be improved to provide greater clarity and consistency with federal guidelines,*

Whereas the procedure for determining outcomes following investigations of allegations of discrimination by faculty is not clearly stated in the faculty handbook,

Be it resolved that the language of the Faculty Handbook be revised to include the following

IV.L. Procedures in the Event of Allegations of Violation of Professional Ethics

2. Reporting violations.

Cases involving alleged research misconduct should be reported to the Office of the Vice President for Research (IV.L.3). Alleged violations of sexual misconduct, relationship violence, and stalking (as indicated in Policy No. 03.004) and of discrimination (Policy 40.001 Equal Employment and Educational Opportunity) should be reported to University Equity and Civil Rights Compliance (ECRC). Allegations of sexual misconduct (and other violations of 03.004) will be investigated and resolved via the procedures outlined in II. Q. Those involving discrimination (as defined by Policy 40.001) will be investigated by ECRC and reviewed via procedures outlined in IV.L.3.a. All other cases of alleged violations of professional ethics should be brought to the attention of the department chair ^[3] and resolved by according to section IV.L.3.b.

3. Procedures for allegations not involving sexual or research misconduct

- a. For allegations of discrimination or harassment based on race, color, religion, age, ethnicity, national origin, national ancestry, sex, pregnancy, gender, gender identity or expression, sexual orientation, military service or veteran status, mental or physical disability, or genetic information as defined by Policy 40.001, ECRC investigates the allegations according to procedures outlined in its Grievance Resolution Procedure, <https://www.ohio.edu/equity-civil-rights/grievance-resolution.cfm>).

Briefly, in the inquiry phase, the ECRC investigator will evaluate whether the allegations, if substantiated, would constitute a violation of Policy 40.001. If so, then the ECRC investigator will proceed to initiate an investigation. If the ECRC investigator determines that the allegation would not violate the policy even if substantiated, the ECRC investigator will close the inquiry.

If the ECRC investigator determines an investigation is warranted, the investigator will notify the faculty member identified in the complaint as well his/her/their department chair and the dean of the college/school when the investigation is initiated. ECRC will provide the faculty member with written notice of the allegations involved in the sexual misconduct complaint. As a part of the ECRC investigation, the faculty member will have the opportunity to present any oral, written, or other information they wish the investigator to consider and to identify any witnesses the faculty member believes may have information relating to such a complaint before an investigation is completed.

ECRC endeavors to complete investigations as promptly as possible. In the event an investigation cannot be completed within 90 days, ECRC will notify the faculty member and the complainant(s) in writing, with a copy to the faculty member's dean and chair, of the need to extend the timeline and provide an anticipated timeline for completion of the investigation.

Once an investigation is complete, the ECRC Memorandum of Findings (MOF) will be sent to the complainant(s) and the faculty member involved, with copies to the dean of the planning unit and the chair of his/her/their department.

If the ECRC MOF does not support findings of misconduct, the ECRC investigator closes the ECRC case. ECRC's closing of the ECRC case does not foreclose the examination of the faculty member's conduct by other established university processes.

If the ECRC MOF presents findings of discrimination (violations in accordance to Policy No. 40.001), the dean will forward the complaint to the College Professional Ethics Committee (according to V.L.4.d) for its review and recommendation of disciplinary action. The college PEC's responsibility is to consider only the charges contained in the ECRC MOF.

- b. For apparent violations of professional ethics not investigated through the Office of the Vice President of Research nor by ECRC, the departmental chair, possibly in consultation with faculty colleagues or a departmental grievance/advisory committee, shall investigate the allegations. The person accused of the violation of professional ethics will be informed of the charges within thirty (30) calendar days and be given an opportunity to explain his/her behavior. If the chair is not satisfied with the explanation, the specifics of the allegations will be given within fifteen (15) calendar days to the person accused in writing. The person accused will have fifteen (15) calendar days to respond to the chair in writing, and the chair will attempt to

resolve the problem. If resolution cannot be reached between the chair, the complainant, and the accused within fifteen (15) calendar days, the chair will forward the specific allegations of violation of Professional Ethics by the faculty member, along with appropriate documentation, to the dean in writing. The faculty member accused will be given the option of submitting his/her explanation of the alleged misconduct in writing as part of the documentation submitted to the dean at the same time. If the dean, chair, complainant, and faculty member accused of the violation cannot reach a resolution of the matter within fifteen (15) calendar days, the specific allegations of violation of professional ethics along with appropriate documentation will be forwarded to the college Professional Ethics Committee (according to VI.L.4.c). A final copy of the allegations will be given to the accused, and once the allegations are forwarded to the college Professional Ethics Committee, no additional charges can be added without beginning the process anew.

- c. When charges are brought against a faculty member from some external professional or governmental agency, the case will proceed directly to the dean and the college Professional Ethics Committee after any adverse determination is made by the external professional or governmental agency.
- d. **Role of the college Professional Ethics Committee.** When an allegation of violation of professional ethics is received by the Professional Ethics Committee of the college, the committee chair will inform the person accused and the committee will carry out a thorough investigation of the charges (or review of the investigation and findings from ECRC in cases of allegations of discrimination according to VI.L.4.a), with the assistance of university offices as needed as determined by the dean and the Professional Ethics Committee chair. The accused person will be given an opportunity to meet and discuss the charges with the committee. When appearing before the committee, the accused person may be accompanied by an advocate, preferably a faculty member.

After consideration of all of the testimony and evidence in the case, the Professional Ethics Committee will report its written conclusions and recommendations to the dean of the college and to the person accused with a copy to the provost. The report and recommendations must be issued within thirty (30) days after receiving the written allegations. The findings and recommended action may include the following:

Not Guilty—In matters not investigated by ECRC, the Professional Ethics Committee finds that the person charged is not guilty of a violation of professional ethics. This finding ends the process.

However, for investigations conducted by ECRC (VI.4.a) where the investigator presents findings of misconduct, a PEC recommendation of **Not Guilty** is inappropriate, the minimum sanction possible would be **Insufficient cause** to support disciplinary action.

Reprimand—Suitable for violations of professional ethics that are moderately serious.

Censure or Disciplinary Action-- Appropriate for more serious violations of professional ethics, and may include, but are not limited to, a formal censure, reassignment of duties for some specified period of time, a financial penalty not to exceed 10% of the academic year's salary and/or recommendation that a school or department initiate loss of tenure and/or dismissal proceedings.

A recommendation of reprimand, censure, disciplinary action or to initiate loss of tenure/dismissal proceeding requires at least four positive votes from the college Professional Ethics Committee. In these cases, the report and recommendations of the Professional Ethics Committee and the dean's recommendation are forwarded in writing to the Provost for action within thirty (30) days after the dean receives the report and recommendations of the college Professional Ethics Committee. The dean may recommend a reduced, but not more severe, penalty to the Provost, and a copy of the dean's recommendation is given to the accused.