



## Ohio Administrative Code

### Rule 3335-5-04 Procedures for complaints of misconduct made against faculty members.

Effective: April 2, 2021

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(A) This rule shall apply to all formal complaints of misconduct against faculty members as defined in rule 3335-5-19(A) and (B) of the Administration Code. Complaints may be filed under this rule against any individual with a faculty appointment, including administrators who hold such appointments.

(1) Complaints about the performance of administrators in their administrative capacity must be brought pursuant to applicable rules or policies for those administrative positions; all complaints against administrators who hold faculty appointments relating to the violation of applicable law, university policies or rules, or unit governance documents (other than those related to the performance of the administrator's duties) must be brought under this rule.

(B) Complaints shall proceed under the general procedures set forth in this rule and the specific procedures set forth in the following four subsections based on the nature of the allegations.

(1) Complaints involving allegations of failure to meet faculty obligations shall proceed under rule 3335-5-04.1 of the Administration Code. A faculty member may be disciplined under this rule, and may be terminated if the conduct constitutes serious failure to meet faculty obligations for violations established under rule 3335-5-04.1(A) of the Administration Code.

(2) Complaints involving allegations of research misconduct shall proceed under rule 3335-5-04.2 of the Administration Code. A faculty member may be disciplined up to and including termination for violations established under this rule.

(3) Complaints involving allegations of sexual misconduct, workplace violence, whistleblower retaliation, discrimination, harassment, and retaliation based on protected status shall proceed under rule 3335-5-04.3 of the Administration Code. A faculty member may be disciplined up to and including termination for violations established under this rule.



(4) Complaints involving allegations of violations of applicable law, university policies or rules, or unit governance documents shall proceed under rule 3335-5- 04.4 of the Administration Code, unless they fall under rules 3335-5-04.2 or 3335-5-04.3 of the Administration Code. A faculty member may be disciplined under this rule, and may be terminated if the conduct constitutes grave misconduct or non-trivial financial fraud for violations established under rule 3335-5-04.4(A)(1) and (2) of the Administration Code.

(C) Conflicts:

(1) No administrator may act in their administrative capacity in the consideration of any complaint naming them as respondent. If a complaint names a department chair, school director, or a dean as respondent, the executive vice president and provost (hereinafter "provost") shall appoint an equivalent rank administrator from another department or college to perform the responsibilities of the named official under this rule. If a complaint names the provost as respondent, the president shall appoint an individual to perform the responsibilities of the provost. If a complaint names the president as respondent, the board of trustees shall appoint an individual to perform the responsibilities of the president.

(2) If any individual with responsibilities under this rule has a conflict of interest with a complainant or respondent, such that the individual stands to benefit personally or incur personal harm depending on the outcome, or otherwise has a relationship with the faculty member against whom the complaint is made (hereafter "respondent") that creates a bias, or otherwise could not fairly and impartially perform those responsibilities, the individual shall not participate in this process, and a replacement shall be named in accordance with section (C)(1) of this rule. In the event that a member of an investigation or sanctioning committee has such a conflict, that individual shall be replaced in accordance with the applicable procedures for that committee.

(D) If the provost determines that a faculty member's presence on campus is detrimental to the safety and well-being of the university community or university property, the provost may reassign the faculty member off campus with pay pending completion of the process set forth in this rule.

(E) At each step of the process, individuals with responsibilities under this rule may use informal dispute resolution to resolve the complaint to their satisfaction as well as that of the complainant and



the respondent in accordance with applicable policy. The appropriateness of an informal resolution in any case will depend on the circumstances of each particular case. All such resolutions must be reported to the office of academic affairs for review and approval before being finalized. In addition, reports must be made to the office of research (for proceedings under faculty rule 3335-5-04.2 of the Administration Code), or the office of institutional equity or office of human resources (for proceedings under faculty rule 3335-5-04.3 of the Administration Code) as may be applicable.

(F) Complainants and respondents may expressly or implicitly relinquish their rights to participate in any step of this process, including but not limited to by failing to respond to reasonable attempts to schedule required meetings, or by failing to appear for scheduled sessions. If a complainant or respondent relinquishes their rights of participation at any step, that relinquishment does not prevent that individual from exercising any rights that may be applicable at any other step of the process. To the extent not specified in this rule, complainants and respondents shall be entitled to all rights required by state and federal law that are applicable to these proceedings.

(G) All records of proceedings under this rule shall be maintained by the office of academic affairs. Such records shall be afforded the same privacy and confidentiality afforded to comparable records of other university employees, subject to public records laws and other disclosures within and external to the university in accordance with applicable law and the need to know such information to support university operations.

(H) The term "day" as used in this rule means "calendar day". If the last day of a designated time period falls on a weekend or a day on which the university is closed, the time period shall expire at the close of business on the next succeeding business day.

(I) Complainants and respondents shall be given written notice of decisions required by this rule. Any notice shall be sent by certified mail and by email. The time period for any action to be taken after delivery of the notice shall begin to run on the date on which the notice is mailed.

(J) At each step of the process set forth in this rule, a respondent may be accompanied by one support person of their choosing (including but not limited to personal legal counsel). Except as otherwise provided in rules 3335-5-04.1 to 3335-5-04.4 of the Administration Code, though, such individual shall only be entitled to appear with the respondent and shall not be entitled to participate



in or delay the process in any way.

(K) The timelines set forth in this rule and in rules 3335-5-04.1 to 3335-5-04.4 of the Administration Code are mandatory. However, the provost or designee may grant defined extensions of any time period on an as-needed basis upon written request.