3356-2-09 Complaint process for university policies related to free speech and Advance Ohio Higher Education Act.

(A) Policy statement. This policy is to comply with the Advance Ohio Higher Education Act, specifically sections 3345.0217 and 3345.88 of the Revised Code, as well as the Forming Open and Robust University Minds (FORUM) Act, specifically section 3345.0215 of the Revised Code.

(B) Purpose. The purpose of this policy is to establish the process that shall be used by university administration to investigate and determine the appropriate response for complaints which allege a violation of the following university policies (here and after referred to as "applicable policies"):

(1) Equality of opportunity for all faculty, staff, and students (3356-2-04);

(2) Prohibitions on diversity, equity and inclusion in orientation/training and employment; scholarships and grants (3356-2-06);

(3) Affirmations regarding controversial beliefs or policies and intellectual diversity (3356-2-07);

(4) Campus free speech (3356-2-08).

(C) Scope. Students, student groups, faculty and staff may submit a complaint about an alleged violation of applicable policies using this webform. Complaints must be submitted within one year of the date of the action causing the complaint.

(D) Procedures.

(1) Submitting a complaint. Complaints may be submitted via the following methods:

(a) Complaints may be filed online using a webform found on the university's webpage titled, "Advance Ohio Higher Education Act (SB1 136th General Assembly)."

(b) Complaints may be made by telephone by calling the office of equal opportunity at (330) 941-2160.

(c) Complaints may be made in person at the office of equal opportunity, third floor of Tod hall, suite 312.

(2) Intake and investigation. The following process shall be used when a complaint about an alleged violation has been received regarding applicable policies.

(a) Upon receiving a complaint that alleges a violation of an applicable policy, the office of equal opportunity (EO) will

acknowledge it in writing. EO will initiate a preliminary assessment to determine if the complaint can be addressed under an applicable policy and provides enough specificity to be actionable.

(b) If EO determines that a complaint does not allege a violation that can be addressed under an applicable policy, EO may give the complainant the opportunity to clarify the nature of the complaint. EO may dismiss a complaint if it cannot be addressed under an applicable policy. This determination does not prohibit referral of the complaint to another university process or office if appropriate.

(c) If EO determines that a complaint does allege a violation that can be addressed under an applicable policy, then EO will initiate an investigation. An investigator may interview parties and witnesses and request additional information.

(d) The investigator will draft a summary of evidence and include documentation as deemed relevant by the investigator. The investigator will share the summary of evidence with the complainant and the respondent. The complainant and respondent may submit a response to the summary of evidence to the investigator within five business days.

(e) All parties are to direct inquiries about the investigation process, timeline, and status to the investigator.

(3) Informal resolution. Informal resolution will be considered when agreed to by all parties and approved by the investigator. The parties may request informal resolution after a complaint has been determined to be appropriate for investigation. Informal resolution is a voluntary process focusing on restoring access to education/employment and educating parties on the impact of reported behavior to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. In the event that informal resolution is not successful, the matter will move forward under a formal hearing process.

(4) Hearing and determination.

(a) Once the investigation is complete, a decision maker will be appointed based upon the respondent's status:

(i) The provost or their designee will serve as the decision maker for matters involving faculty respondents.

(ii) The chief human resource officer or their designee will serve as decision maker for matters involving staff respondents.

(iii) The dean of students will serve as decision maker for matters involving student respondents.

(b) The decision maker will conduct a fair and impartial hearing via paper submissions, or by video conference or in-person conference at the decision maker's sole discretion, and will adjudicate the case within sixty days of EO receiving the complaint, absent extenuating circumstances.

(c) During the hearing, the decision maker will summarize the evidence and the complainant and respondent will be provided an opportunity to provide a statement. In the event of a video or in-person conference, an advisor may accompany the complainant or respondent, who may only provide counsel or support for the party but may not actively participate in the process.

(d) After the hearing, the decision maker will provide a final determination in writing to the parties. A respondent will only be found in violation if a preponderance of the evidence supports the allegations in the complaint.

(5) Resolutions and sanctions. If the decision maker determines an applicable policy was violated, the decision maker will refer the matter to the appropriate university office or division to facilitate a resolution and any disciplinary sanctions or other appropriate measures, which shall be processed in accordance with applicable rules, policies, or collective bargaining agreements as may be appropriate based upon respondent's student or employment status. Disciplinary measures shall include potential actions up to and including expulsion from the university for students and termination of employment for faculty and staff.

(6) Appeal process. A complainant or respondent may appeal the determination regarding responsibility and/or the university's dismissal of a formal complaint. An appeal must be submitted in writing to the executive director of equal opportunity within five working days from receipt of a final determination. An appellate officer shall be appointed by EO to hear the appeal.

(a) Appeals are not a re-hearing of the allegation(s).

(b) There are two grounds for appeal:

(i) Procedural irregularity that significantly impacted the outcome of the matter (for example, material deviation from established procedures). The appeal request must cite specific procedures and how they were in error; and/or

(ii) New evidence that was not reasonably available at the time the original decision was made that could have affected the outcome. A summary of this new evidence and its potential impact must be included in the request. (Note: Failure to participate or provide information during an investigation or hearing does not make information unavailable during the original investigation or hearing).

(c) The standard on appeal is whether there is relevant evidence/ information such that a reasonable person would support the decision(s).

(d) The appellate review officer can:

(i) Affirm the original findings; or

(ii) Remand the case to the original decision maker for consideration of new evidence or to remedy a procedural irregularity; or

(iii) Dismiss the appeal request if untimely or insufficient grounds for appeal.

(e) Decisions rendered by the appellate review officer or actions taken following the appellate review officer's decision are final and not subject to further appeal.

(E) Retaliation. Retaliation is prohibited and may result in further action up to and including termination for employees and expulsion for students.

(F) False allegations. It is a violation of this policy for anyone to intentionally report information or allegations that they know, or reasonably should know, to be untrue or false. However, failure to prove an allegation is not equivalent to a false allegation.