

## **Discrimination Complaint Processing Guidelines (For Employees and Third Parties)**

The University of the Incarnate Word will take all available steps to promptly, thoroughly, and impartially investigate and address complaints of discrimination, including discriminatory harassment and other discriminatory misconduct by its employees and third parties (including visitors and community members).<sup>1</sup> The University will always attempt to respond to complaints, reports, allegations and information about discrimination that it knows or should know about, in order to stop prohibited conduct, prevent its recurrence and address any lingering effects on campus from such conduct. Under these policies and procedures, the University of the Incarnate Word will consider the effects of off-campus conduct for faculty, staff, students, visitors and community members when evaluating whether there is discrimination or a hostile environment on campus.

Although some cases may be appropriate to address and resolve informally, in those cases where a complainant elects to proceed with a formal investigation or the University feels a formal investigation is appropriate, the University of the Incarnate Word will assign appropriately trained Title IX Deputy Coordinators to investigate the discriminatory conduct at issue. Although each investigation will vary based on allegations, scope and other factors, the Complainant and Respondent in each case will be permitted to describe their allegations in support of or in response to the complaint, suggest witnesses to be interviewed, and present evidence. The statements of the parties and witnesses, including any documentation that is relevant to the investigation, as determined relevant and appropriate by the investigator, will be considered by the assigned Title IX Deputy Coordinators

Interviews will be the primary method of collecting information as part of the fact-finding investigation. It is the responsibility of the Title IX Deputy Coordinators, not the parties, to gather the evidence relevant to the complaint and the facts raised in the parties' statements, to the extent reasonably possible.

In allegations of sexual assault, stalking, and relationship violence (both domestic violence and dating violence), both Complainants and Respondents may be more comfortable navigating the process with the help of a support person. A support person is someone whom the party trusts to provide advice and support during the process. A support person can be any person the party feels comfortable confiding in, and need not be affiliated with the University of the Incarnate Word (i.e. a friend, a family member, a person from a support or advocacy agency, attorney, etc.). A support person may accompany the party to any part of the adjudication process, including any meetings with the Title IX Deputy Coordinators, and/or Title IX Coordinator. The support person may **NOT** participate in the process in any way and, as such, cannot be a witness to the allegations in the complaint. Attorneys may serve as support persons, with the same rules applying. A support person must agree to sign a Non-Retaliation Acknowledgement form prior to being present for any meeting.

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<sup>1</sup> These procedures are intended to be consistent with applicable state and federal requirements, including Title IX which covers all University programs and activities.

Once the facts and evidence are gathered from all parties, and the Title IX Deputy Coordinators conclude that the fact finding is over, the Title IX Deputy Coordinators will make a recommendation to the Title IX Coordinator whether the preponderance of the evidence indicates that the respondent violated the relevant University of the Incarnate Word anti-discrimination and/or the Sexual Misconduct Policy. The Title IX Deputy Coordinators and/or the Title IX Coordinator will provide their conclusions to the parties and at that time each party will have an opportunity to comment on and respond to the information presented and provide any additional information that may not have been reviewed by the Title IX Deputy Coordinators but should be considered prior to a decision being rendered regarding the complaint. Any response to the conclusions must be provided to the assigned Title IX Deputy Coordinators within **seven (7)** days. Following these meetings, the Title IX Coordinator will issue a decision in writing and will refer disciplinary action as appropriate to the relevant University office.

In case of a conflict of interest, the Director of Human Resources will make the final decision regarding the complaint.

The complainant and the respondent will be notified contemporaneously in writing of the outcome of the investigation upon its conclusion. Decisions about discipline, if any, related to the investigative findings will be the responsibility of the appropriate office, i.e. the Office for Human Resources, possibly in collaboration with the respondent's manager/supervisor(s), for staff. The appropriate office will make a decision concerning the resolution of the complaint and any corrective action that will be imposed.

In most cases, the described investigative process will take approximately 60 business days, though in more complex cases (including, but not limited to, many key witness interviews, volumes of evidence-based documents or investigations that require working with a subject matter expert) an investigative process may take longer. In addition, multi-party or consolidated complaints may take longer than 60 calendar days. The Title IX Deputy Coordinators, the Title IX Coordinator or other designee will keep the parties apprised of any delays and the reasons therefore. The University will conduct its own investigation and adjudication of a complaint arising under this policy regardless of whether the alleged discrimination is also being pursued through the criminal justice system. The University of the Incarnate Word will comply with law enforcement requests for cooperation. At times, that cooperation may require the University to temporarily suspend its fact-finding investigation while law enforcement gathers evidence. The University will promptly resume its fact-finding investigation as soon as it is notified that doing so would not impede any law enforcement activities.

In the event of a policy violation, the appropriate University office will review a number of factors in determining appropriate discipline including the nature of the violation and the severity and pervasiveness of the conduct, as well as any steps necessary to address and prevent future concerns. Individuals found in violation of University of the Incarnate Word policy will be subject to disciplinary action, up to and including termination of employment. At any point in the investigative process, including at the beginning or conclusion of an investigation and/or at the disciplinary state, the University of the Incarnate Word may implement interim remedial measures to address the safety of the complainant, other witness, or the University community. Interim measures are also available to those who decide against filing a complaint or choose not to pursue a complaint.

Cooperation and truthfulness by all participants is expected in all investigations. The University of the Incarnate Word recognizes the importance of privacy and confidentiality in these matters and the Title IX Coordinator and Title IX Deputy Coordinators will uphold the privacy and confidentiality of all parties to the extent practicable. Some individuals filing complaints or involved in an investigation may want their identity to remain confidential. In some instances, the respondent can be spoken to without the complainant being identified. In other cases, issues of confidentiality must be balanced against the University of the Incarnate Word's need to investigate and take appropriate action. While discretion remains important, parties are not restricted from discussing and sharing information relating to their complaints with others who may support them or assist them in presenting their case.

Any and all documents retained at the conclusion of a resolution of a complaint will be maintained by the University of the Incarnate Word in a safe and confidential manner.

Any member of the University of the Incarnate Word community has the right to raise concerns about or file a good faith complaint of discrimination without fear of retaliation. It is unlawful and it is a violation of University of the Incarnate Word policy to retaliate against an individual for filing a complaint of discrimination or for cooperating in a discrimination investigation.

Retaliation against anyone who reports an incident of discrimination, brings forward a complaint, or who in any way participates in an inquiry or investigation of discrimination is **strictly prohibited**. Retaliation is also prohibited against anyone who opposes, in a reasonable manner, an act or policy believed to constitute a violation of the University of the Incarnate Word non-discrimination/sexual misconduct policies. Retaliation includes things like hostility, intimidation, threats, exclusion or in any way discriminating against an individual because of the individual's complaint or participation in the investigative process. Any person who retaliates against an individual reporting discrimination, filing a discrimination complaint, or participating in a discrimination investigation is subject to disciplinary action up to and including termination by the University.

If you have questions about this process, please contact Title IX and Compliance Coordinator Caitlin McCamish at [mccamish@uiwtx.edu](mailto:mccamish@uiwtx.edu) or by telephone at (210) 283-6977.