



**Coastal Carolina University
Protected Rights Investigation Procedures and Process
(Other than Title IX)**

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The University adheres to the following Protected Rights Investigation Procedures and Process (“Protected Rights Process”) when responding to and addressing a report of discrimination based on a Protected Right, other than Title IX, as prescribed in University policies, including but not limited to UNIV-476 Prohibition Against Discrimination and UNIV-444 Equal Employment Opportunity Policy (the “Protected Rights Policies”). The University will follow this Protected Rights Process before the imposition of any sanctions, other than interim actions, against a Respondent. For information regarding the University’s response and method of addressing reports of discrimination under Title IX of the Education Amendments of 1972, see UNIV-468 Title IX Policy and the Title IX Grievance Procedures and Process.

In general, the Protected Rights Process includes: (1) the receipt of a report or the filing of a complaint of alleged discrimination by the Complainant or an individual with knowledge of the situation; (2) an assessment regarding the application of University policy to the alleged conduct; (3) a determination of whether the Office of Protected Rights and Title IX is the appropriate office to conduct the investigation; (4) the Formal Resolution Process and/or Informal Resolution Process (if applicable); and (5) the Appeal Process (if applicable).

Definitions

The capitalized terms set forth in this Protected Rights Process have the definitions provided herein or within University policy.

Receipt of a Report of the Filing of a Complaint of Alleged Discrimination

All members of the Coastal Carolina Community, as well as applicants for employment, should contact the Office of Protected Rights and Title IX if they observe or encounter conduct that may violate Protected Rights Policies. Reports of alleged violations may also be made to an immediate supervisor. Reports of alleged violations may be made to the next level supervisor if the alleged discrimination is from the immediate supervisor. Students can report alleged violations to deans or department chairs, to staff in the Dean of Students Office or to the Office of Protected Rights and Title IX.

Any University employee who receives a report of alleged discrimination is required to notify the Office of Protected Rights and Title IX as soon as practicable in order to have reports promptly processed under this Protected Rights Process.

A report may be filed with the director of protected rights in person, by mail, or by email using the contact information below.

Director of Protected Rights: Antoinette Bellamy, Ed.D.

Email: eeo@coastal.edu

Physical location: Kearns Hall - 211B

Mailing address: PO Box 261954 Conway, SC 29528

Prompt reporting enables the University to effectively investigate the facts, determine if a violation of policy has occurred, and provide an appropriate remedy and/or take appropriate disciplinary action.

Upon receipt of a report of alleged discrimination, the Director of Protected Rights will meet with the complainant to gain additional information and discern the wishes of the party as they relate to proceeding under the Informal or Formal Resolution Processes set forth herein. The wishes of the complainant making the report will be considered, but the University will determine whether or not it is obligated to proceed under the Formal Resolution Process based on the seriousness or nature of the allegations and in its sole discretion.

Assessment Regarding the Application of University Policy

If the allegation(s) forming the basis of report would not, if substantiated, constitute a violation of Protected Rights Policies, the Director of Protected Rights may then, in their discretion, dismiss the report, or portions thereof, and, if appropriate, refer the allegation(s) to the Dean of Students or Office of Human Resources under other University policies.

If it determined that the allegations forming the basis of the report would, if substantiated, constitute a violation of the Protected Rights Policies, a Notice of Investigation, including the allegations forming the basis of the report, will be provided to both the complainant(s) and the respondent(s). This Notice of Investigation shall be provided to parties in advance of any discussion with the parties or investigative interview to allow sufficient time for the parties to prepare a response.

Interim Action

At any point in Protected Rights Process, the Office Protected Rights and Title IX may offer **Interim Support Services** to protect parties or witnesses involved in the investigation, including, but not limited to, separation of the parties, temporary reassignment, alternative work or student housing arrangements, or other types of temporary measures in the discretion of the University. The University also reserves the right to issue mutual no contact orders to any or all parties involved in the Protected Rights Process.

Informal and Formal Resolution Processes

Informal Resolution Process

The goal of the **Informal Resolution Process** is to resolve a report of alleged discrimination at the earliest stage possible. This process includes, but is not limited to, discussions with the parties, informal mediation of an agreement between the parties, referring the parties to counseling programs, conducting educational and training programs, and making other recommendations for resolution prior to any formal investigation or investigative report.

The **Informal Resolution Process** is not appropriate for all types of reports of misconduct or complaints of alleged discrimination. The Director of Protected Rights has the sole discretion to determine if the Informal Resolution Process may be utilized.

Following the receipt of a report of alleged discrimination and assessment regarding the application of University Policies, the Office of Protected Rights and Title IX may offer the Informal Resolution Process to the parties.

Both the Complainant and the Respondent must sign an agreement to enter into the Informal Resolution Process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution Process and initiate the Formal Resolution Process. **The University may withdraw its approval for the Informal Resolution Process at any time and decide to proceed with the Formal Resolution Process in its sole discretion.**

During the **Informal Resolution Process**, discussions may be conducted separately with the Complainant and the Respondent to gain information and develop a mutually satisfactory resolution. If both parties agree, they may be brought together for a joint discussion. The Informal Resolution Process is concluded upon the occurrence of one of the following events: (1) withdrawal from the Informal Resolution Process by any party or the University, or (2) a mutually satisfactory resolution consented to by parties.

The **Informal Resolution Process** does not include a formal investigation or the creation of an investigative report, but the steps taken within the **Informal Resolution Process**, any **Interim Support Services** offered and/or put into place, and the outcome of the Informal Resolution Process, including an agreement between the parties reflecting the mutually satisfactory resolution, will be documented within the Office of Protected Rights. There is no appeal right from the **Informal Resolution Process**.

Formal Resolution Process

Following the receipt of a report of alleged discrimination, the assessment regarding the application of University Policies, the Office of Protected Rights and Title IX, and the election to proceed with the Formal Resolution Process by at least one party or by the University, the University will proceed with the Formal Resolution Process.

The **Formal Resolution Process** includes: (1) an investigation into the report of alleged discrimination by one or more trained investigators, concluding with an investigative report summarizing the relevant evidence gathered during the investigation, (2) review of the investigative report by a Decision-Maker to conclude, based on the preponderance of the evidence, whether or not a violation of one or more of the Protected Rights Policies occurred, (3) a Determination Memorandum written by the Decision-Maker with a reasoned decision and conclusion based on the preponderance of the evidence whether or not a violation of one or more Protected Rights Policies occurred, (4) if a violation has occurred, the imposition of a sanctions by Office of Human Resources under FAST-222 or the Dean of Student's Office pursuant to the

Code of Student Conduct or the Student Organization Handbook against the respondent for the violation, and (5) the right to an appeal.

The University will strive to complete the Formal Resolution Process as soon as practicable and in a reasonably prompt manner, efficiently navigating the schedules of the Complainant, Respondent, witness(es), support personnel, advisers, Investigators, and Decision-Maker(s), and other individuals involved.

Investigation

When investigating an allegation of discrimination and throughout the Formal Resolution Process, the University (i) will not access, consider, disclose, or otherwise use a party's medical records, unless the University obtains that party's voluntary, written consent to do so for a Grievance Process under this Policy; and (ii) will provide both parties with an equal opportunity to present witnesses, including fact and expert witnesses, and to present other relevant inculpatory and exculpatory evidence.

Lack of cooperation and/or participation in the investigation and/or Protected Rights Process may limit the University's ability to investigate.

For a party whose participation in the **Formal Resolution Process** is invited or expected, the University will provide such party written notice of the date, time, location, participants, and purpose of the investigative interview or other meetings, with sufficient time for the party to prepare to participate.

At the conclusion of the investigation, both parties will be notified that the investigation has concluded, and the investigator will prepare a written investigative report evaluating and summarizing the relevant evidence gathered during the investigation and including all supporting evidence.

All relevant evidence, including party statements and witness statements, will be evaluated objectively, and credibility determinations by the investigator, if any, will not be based on a person's status as a Complainant, Respondent, or witness.

Determinations and Sanctions/Disciplinary Action(s)

The investigative report will be delivered to a Decision-Maker to conclude, based on the preponderance of the evidence, whether or not a violation of one or more of the Protected Rights Policies occurred.

The Decision-Maker is an individual appointed by the University and may be an employee of the University or a third-party contracted to serve in the role. In no event will a Student serve as a Decision-Maker. The Decision-Maker will be selected based on availability and cannot have a conflict of interest for or against any party or witness involved in the Protected Rights Process.

The Decision-Maker will issue a written determination (the “**Determination Memorandum**”) regarding responsibility of the respondent using the Preponderance of the Evidence standard, meaning that it is more likely than not or the greater weight of the evidence, that a violation of policy occurred. The Determination Memorandum will include: (a) the allegations, (b) the procedural steps taken during the Protected Rights Process, (c) findings of fact supporting the determination, (d) conclusions regarding the application of the relevant policy to the facts, (e) a determination of responsibility, and (f) the University’s procedures and permissible bases for either party to appeal. The University will provide the Determination Memorandum to the parties simultaneously as well as to the appropriate office for the imposition of sanctions against a party found in violation, i.e. the Office of Human Resources under FAST-222 or the Dean of Student’s Office pursuant to the Code of Student Conduct or the Student Organization Handbook

Appeal Process

Both parties are allowed the opportunity to appeal the Determination Memorandum regarding responsibility and imposition of sanctions.

Grounds for Appeal

Either party may file a notice of appeal on one or more of the following three grounds.

1. Procedural irregularity that affected the outcome of the matter.
2. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.
3. The Investigator(s) or Decision-Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

How to File an Appeal and Appeal Timeline

A party has five (5) calendar days to submit an appeal, calculated from the date of a (a) dismissal determination that the basis of report would not, if substantiated, constitute a violation of Protected Rights Policies, (b) the delivery of the Determination Memorandum in a Formal Resolution Process finding no violation Determination Memorandum, or (c) the delivery of written notice of the imposition of sanctions in a Formal Resolution Process if a violation was found, whichever occurs last. **Appeals must be submitted to compliance@coastal.edu.**

The appeal must contain the party’s name, the ground(s) for appeal, and any supporting rationale and/or documentation for the appeal.

If both parties file an appeal, the appeals will be considered simultaneously.

All documents in the Formal Resolution Process and the notice of appeal will be forwarded to the Appellate Panel for review and analysis. A decision will be rendered by the Appellate Panel within fifteen (15) calendar days from the date of the notice of appeal.

Power of Appellate Panel in Reviewing Appeals

Appeals are strictly limited to the three grounds set forth above. Appeals are not a full review of the Formal Resolution Process. The Appellate Panel, as assigned by the University, will only consider those grounds raised in the notice of appeal. The Appellate Panel may only grant an appeal based on one the reasons set forth above.

The Appellate Panel shall put forth their decision in writing, and in issuing their decision. All decisions of the appeals officer are **final**.

If the Request for Appeal is Granted

Both parties will receive the decision of the Appeals Panel if they decide to grant an appeal.

If the Appeals Panel decides in the appealing party's favor (*i.e.*, grants the appeal) based on grounds for appeal 1 or 2, the Appeal Panel shall require a new review of the case by a new Decision-Maker(s).

If the Appeals Panel decides in the appealing party's favor with respect to grounds for appeal 3, the Appeals Panel, in addition to requiring a new review of the case, may also require a new investigation with a new investigative report if the Appeals Panel finds that there was a conflict of interest or bias with respect to an Investigator or Decision Maker.

If the Request for Appeal is Denied

Both parties will receive the decision of the Appeals Panel if they decide to deny the appeal. Reasons for denial may include but are not limited to (i) the request falls outside of the three grounds for appeal; (ii) the Appeals Panel disagrees with the appealing party's arguments; and/or (iii) the appeal did not meet the time limits outlined in this Investigation Process and Procedure.

The determination regarding responsibility, and the imposition of any sanctions, become final either on (i) the date that the University provides the parties with the Written Determination of the result of the appeal, if an appeal is filed, or (ii) the date on which an appeal would no longer be considered timely.

Confidentiality

The University will maintain as confidential any Interim Actions offered or provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Interim Actions.

The Informal Resolution Process and the Formal Resolution Process will be confidential to the extent permitted by law and necessary to carry out the Process(es). All parties will be advised of the confidentiality of the investigation and the strict prohibition against retaliation.

Grievances Pursuant to Law

Nothing in this Investigation Procedure and Process is intended to prevent nor deny employees the right to file a Grievance pursuant to S.C. Code of Laws §8-17-30 and University policy FAST-212 Grievance.