Procedures for Responding to and Resolving Complaints of Unlawful Harassment and Discrimination

There are several courses of action available to address complaints of unlawful harassment and discrimination, each with different consequences and implications with respect to confidentiality and resultant action. These options are not mutually exclusive. The complainant may choose which course to follow and may submit a formal complaint at any time. In cases where Caltech has determined that an investigation is warranted, a fair, timely and thorough investigation will be conducted that provides all parties with appropriate due process to ensure that the parties receive notice and an opportunity to be heard.

The following procedures apply to complaints related to unlawful harassment or discrimination. At JPL, this includes allegations of sex discrimination and sexual harassment except as noted below.

Note: At campus all sex discrimination and sexual harassment complaints are investigated under Gender-Based Misconduct procedures. At JPL, sex discrimination and sexual harassment complaints related to students and individuals participating in educational programs and activities, are also investigated under the Gender-Based Misconduct policy.

A member of the Caltech community who wishes to report unlawful harassment or discrimination should do so as soon as possible, although reports (hereinafter “complaints”) may be made at any time. Complaints can be made orally or in writing. Complaints should be brought to the attention of one of the individuals designated in the Unlawful Harassment Policy.

http://hr.caltech.edu/documents/46-citpolicy_harassment.pdf

Informal Options
Individuals who believe they have been unlawfully harassed or discriminated against may choose to resolve their concerns informally. In general, the goal of the informal options is to quickly end offending behavior without utilizing disciplinary action. Individuals with an official status at Caltech, such as faculty, managers, or supervisors, have a duty to report alleged unlawful harassment and discrimination to the Equity Office at campus or Human Resources at JPL, who will provide guidance and advice. Individuals are not required to try to resolve their concerns informally before making a formal complaint.

Informal options include:
- Talking personally with the offending individual, or writing a letter asking that they stop. This is a personal step taken solely among the relevant parties.
- Speaking to members of the Student Wellness Center, the Staff and Faculty Counseling Center, or the designated individuals in the Caltech Center for Diversity on campus and the JPL Employee Assistance Program/Life Matters at JPL. Such conversations are confidential and are not communicated to individuals within or outside Caltech, subject to any legal reporting requirements.
- Resolving the complaint informally with the help of a third party who is in a faculty, supervisory or managerial position at Caltech. The goal here is also to allow the parties to resolve complaints without an investigation and without elevating the complaint within
Caltech. However, a person in one of these official positions is obligated to follow up with the Equity Office on campus or Human Resources at JPL and the complainant to be sure the situation has been resolved.

**Formal Complaint**

Formal complaints of unlawful harassment and discrimination can be reported to the individuals designated in the Unlawful Harassment Policy [http://hr.caltech.edu/documents/46-citpolicy_harassment.pdf](http://hr.caltech.edu/documents/46-citpolicy_harassment.pdf). The Equity Office on campus or Human Resources at JPL will look into concerns of unlawful harassment or discrimination and will determine whether a formal investigation will be conducted. If it is determined that a formal investigation is warranted, a trained investigator will be assigned. The complainant and the respondent may object to an investigator(s) if they believe the investigator has a conflict or cannot be impartial. The Equity Office on campus or Human Resources at JPL will consider any objections and notify the parties of the decision related to the investigator(s). Such objections must be made in writing to the Equity Office on Campus or to the Manager of Employee Relations at JPL and must include the reason for the objection.

**Formal Investigation Steps**

- The complainant and respondent will be provided with a copy of the Nondiscrimination and Equal Employment Opportunity policy and Unlawful Harassment policy and accompanying procedures.

- Within a reasonable length of time after the complaint has been reported, the complainant and the respondent will each be notified of the allegations to be investigated.

- The complainant and respondent will be informed that Caltech does not tolerate retaliation, takes steps to prevent retaliation, and takes strong responsive action if retaliation occurs. The complainant and respondent will be advised to notify Caltech immediately if retaliation occurs.

- The investigation will be treated as private to the extent possible. Caltech will make reasonable and appropriate efforts to preserve the complainant’s and respondent’s privacy and protect the confidentiality of information, but may need to share information on a need-to-know basis.

- The complainant and the respondent will be given an opportunity to be interviewed regarding the allegations and may suggest witnesses or information to the investigator(s), who will determine whether the suggestions are relevant or appropriate. The investigator(s) may also interview other parties or review information that they determine may have information relevant to resolving the complaint.

- Legal counsel is not permitted to be present during interviews. Investigatory meetings will not be recorded by any party involved in a case.

- Complaints will be investigated and resolved within a reasonably prompt time frame after the complaint has been made, though factors, including but not limited to, the complexity of the case may impact the duration of the investigation.

- The investigator(s) will use the preponderance of the evidence standard in reaching findings and conclusions. A preponderance of the evidence means that it is more likely than not that the alleged misconduct occurred.
• The investigator(s) will reach findings and conclusions in the case and will report these, along with his/her recommendations regarding resolution, to the appropriate decision maker(s).

• The complainant and the respondent will be notified of the outcome of the process. Such notice shall include the option to appeal.

• Exceptions to or modifications of these procedures can be made by the Associate Vice President for Human Resources at campus or the Director for Human Resources at JPL, or their designee.

Investigative files are confidential and will be maintained in a file separate from an individual's personnel or academic file.

Resolution
The conclusions that the investigator(s) might reach, include, but are not limited to:

- A violation of Institute policy occurred.
- Wrongful acts occurred, but they did not constitute a violation of Institute policy. For example, the respondent improperly used the power of his or her position or used poor judgment, contributed to an inappropriate work or study environment.
- The allegations were not supported by the preponderance of the evidence.
- The allegations were brought in bad faith.

If appropriate, the appropriate decision maker(s) will review the findings, conclusions and recommendations and determine appropriate actions in conjunction with the Equity Office at campus and Human Resources at JPL. Both the complainant and the respondent will be informed of these results.

If a violation of Institute policy occurred, appropriate corrective action will be taken. Depending on the severity of the case, possible corrective actions include verbal counseling, a formal written warning, removal from a supervisory position and in appropriate cases, and termination of employment.

If there was no violation of Institute policy, but the respondent is found to have committed some other wrongful or improper act, Caltech will take appropriate corrective action. Caltech will also take any necessary steps to protect the complainant from retaliatory actions by the respondent.

If it is determined that the allegations were brought in bad faith, appropriate action will be taken to address the situation.

Appeals
• Appeals must be in writing and submitted within ten (10) calendar days of notification of the decision. Appeals of decisions resulting from the investigation process must be on the grounds that a procedural error or due process violation occurred which would have significantly affected the outcome of the investigation, there is new evidence which would have significantly affected the outcome that was not available at the time of the proceeding, or the sanction is substantially disproportionate to the findings. Appeal decisions are final.

• Decisions of the Provost may be appealed to the Office of the Provost or designee. Decisions of the Dean of Undergraduate Students or Dean of Graduate Studies may be appealed to the Vice President for Student Affairs or designee. Decisions of the Assistant Vice President for Human Resources may be appealed to the Associate Vice President of Human Resources or designee. Decisions of the Deputy
Director for Human Resources at JPL may be appealed to the Director for Human Resources at JPL or designee.

Further Complaints
The complainant should immediately report if the corrective action does not end the harassment, or if any retaliatory action occurs. In such cases, the complainant has the right to file another complaint.

Distribution of the Procedures
These procedures will be distributed annually to faculty, staff, and students, and upon arrival to faculty, staff, or student newcomers to Caltech. In the event that any significant revisions are made, revised versions will be distributed.