



Procedures for Complaints of Unlawful Discrimination, Harassment and Retaliation

1.0 Introduction

Caltech will take prompt and appropriate action to address all reports of unlawful discrimination, harassment, and retaliation in accordance with these and related procedures. Caltech takes all such reports seriously and responds appropriately.

These procedures apply to the following:

At Campus and JPL, these procedures apply to allegations of Prohibited Conduct, as defined in the [Sex- and Gender-Based Misconduct Policy](#), that do not fall under Title IX or the California Education Code, as defined in 15.0 and 16.0 of that policy.

Additionally, at JPL, these procedures apply to allegations of Prohibited Conduct under the Sex- and Gender-Based Misconduct Policy that do fall under Title IX and the California Education Code (Sections 15.0 and 16.0 of the Sex- and Gender-Based Misconduct Policy) but that do not occur in JPL education programs or activities.

Caltech's Sexual Misconduct Procedures apply to allegations of Prohibited Conduct that fall within the scope of the Sex- and Gender-Based Misconduct Policy and under the definitions in Sections 15.0 or 16.0 of the Policy.

There are several courses of action available to address complaints of unlawful discrimination, harassment, and retaliation, 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 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.

A member of the Caltech community who wishes to report unlawful discrimination, harassment, or retaliation 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.

Any reference to a Caltech administrator in this document is understood to include not only that administrator but also their designee.

2.0 Mandatory Reporting Requirement for All Faculty, Managers, Supervisors, and Administrators

Faculty, managers, supervisors, and administrators have a duty to promptly report **all** alleged unlawful discrimination, harassment, and retaliation, regardless of its alleged severity or frequency, to the Equity and Title IX Office at campus or Human Resources at JPL, which will provide guidance and advice.

3.0 Complaint

Complaints of discrimination, harassment, and retaliation can be reported to the individuals designated in the Unlawful Harassment Policy.

http://hr.caltech.edu/documents/2641/caltech_institute_policy-unlawful_harassment.pdf

The complainant and the respondent may object to an investigator(s) assigned to a complaint if they believe the investigator has a conflict or cannot be impartial. The Equity and Title IX 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 and Title IX Office on campus or to the manager of employee relations at JPL and must include the reason for the objection.

At any time, Caltech may put in place supportive or interim measures as appropriate to support the complainant, the respondent and/or others.

4.0 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 investigation and adjudication of alleged prohibited conduct under this section is not an adversarial process between the complainant, the respondent and the witnesses, but rather a process by which Caltech complies with its obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the allegations of prohibited conduct.

- 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, appropriate, or necessary to resolve disputed fact issues. The investigator(s) may also review other information and interview others they determine may have information relevant to investigating and 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 investigation will not require, allow, rely upon, or use questions or evidence that constitute or seek the disclosure of information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient, clergy-penitent), unless the person holding such privilege has waived the privilege.
- The investigator(s) will reach findings and conclusions in the case based on the facts available at the time of the decision and will report these to the appropriate decision maker(s). The appropriate decision makers are the following: the appropriate manager or supervisor for Campus and JPL employees; and the Vice Provost for Research or Administration for faculty.
- The complainant and the respondent will be notified of the outcome of the process.
- 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 file. Disciplinary action taken as a result of an investigation will be included in the personnel file.

5.0 Resolution

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

- A violation of Institute policy or other inappropriate conduct occurred.
- Inappropriate conduct occurred, but it did not constitute a violation of Institute policy. For example, the respondent used poor judgment.
- The allegations were not supported by the preponderance of the evidence.
- The allegations were brought in bad faith.

If appropriate, the decision maker(s) will review the findings, conclusions, and recommendations, and determine appropriate actions in consultation with the investigating office (Equity and Title IX Office at campus, Human Resources at JPL). Both the complainant and the respondent will be informed of the findings and notified when appropriate action has been taken.

If a violation of Institute policy or other inappropriate conduct 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, termination of employment.

Caltech will also take any necessary steps to protect the complainant from retaliatory actions by the respondent and/or others.

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

6.0 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 occurred that 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 a Vice Provost may be appealed to the Office of the Provost. Decisions of employee managers and supervisors at Campus may be appealed to the assistant Vice President for Human Resources. Decisions of employee managers or supervisors at JPL may be appealed to the Director of Human Resources at JPL.

7.0 Further Complaints

The complainant should immediately report if the corrective action does not end the unlawful discrimination or harassment, or if new or continuing unlawful discrimination or harassment occurs. In such cases, the complainant has the right to file another complaint.

8.0 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.

9.0 Exceptions

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.

Related Policies and Procedures:

- [Nondiscrimination and Equal Employment Opportunity](#)
- [Unlawful Harassment](#)
- [Sex and Gender-Based Misconduct](#)
- [Procedures for Complaints of Sex- and Gender-Based Misconduct under Title IX](#)
- [Violence Prevention](#)