



## **Procedures for Complaints of Unlawful Harassment, Discrimination, 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 unlawful harassment, discrimination and retaliation that are not covered under Caltech's [Sex Discrimination Policy](#) and Procedures for Complaints of Sex Discrimination.

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 the Title IX Coordinator or one of the individuals designated in the Unlawful Harassment, Discrimination and Abusive Conduct Policy.

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

### **2.0 Complaint**

Complaints of discrimination, harassment, and retaliation can be reported to the individuals designated in the [Unlawful Harassment, Discrimination and Abusive Conduct Policy](#).

Consistent with Caltech's Unlawful Harassment, Discrimination, and Abusive Conduct Policy, Caltech will conduct a fair, timely, and thorough investigation into complaints within the scope of this policy to determine what occurred and take reasonable steps to remedy the effects of any harassment and prevent reoccurrence of the behavior. Caltech provides all parties with appropriate due process and reaches conclusions based on the evidence collected. Caltech takes appropriate action, including disciplinary measures, when warranted

The complainant and the respondent may object to an investigator/s assigned to a complaint only on the basis that the investigator has a conflict of interest or cannot be impartial. Objections must be made to the Equity and Title IX Office on campus or the Human Resources Office at JPL within three business days of being informed of the investigator/s. 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. Caltech may also explore informal resolution options to resolve the matter.

### **3.0 Investigative Steps**

- The complainant and respondent will be provided with a copy of the Nondiscrimination and Equal Employment Opportunity policy, the Unlawful Harassment, Discrimination and Abusive Conduct policy, the Sex Discrimination Policy, and/or these procedures, as appropriate.
- 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.
- Parties may not engage in coercion, pressure, undue influence, or retaliation with respect to potential witnesses or other parties in the course of preparing to meet with and providing evidence to the investigator. Parties may seek guidance from the Title IX Coordinator and the investigator on appropriate communications. Communications between parties and witnesses deemed to have resulted from coercion, pressure, undue influence, or retaliation may be discounted altogether by the investigator or may be considered by the investigator in making credibility determinations and weighing evidence deemed subject to the undue influence.

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 and determines whether the allegations are substantiated by a preponderance of the evidence.

- 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.
- Failure to cooperate with investigations or processes under these procedures, may also be a separate violation of this policy.
- Legal counsel and other advisers or support persons are 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. It is within the discretion of the Title IX Coordinator or Human Resources at campus, or the Manager of Employee Relations at JPL, to determine whether to conclude an investigation without further opportunity to provide evidence by a party or witness who fails to cooperate reasonably and timely in providing evidence (e.g., failing to schedule or appear for meetings, failing to provide evidence they said they would provide, failing to respond to communications from the investigator in a timely manner).
- 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 or did not occur.
- 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, regarding whether the allegations are substantiated by a preponderance of the evidence, based on the facts available at the time of the decision and will report these to the appropriate administrator (“decision maker”) who will decide responsive measures, including any appropriate discipline. The appropriate decision makers are the following: the appropriate manager or supervisor for Campus and JPL staff and employee respondents; the Vice Provost for Research or Administration for faculty respondents; and the appropriate dean for student respondents.
- The complainant and the respondent will be notified of the outcome of the process in writing. The Notice of Investigation Outcome will include: a summary of the allegations; that the preponderance of the evidence standard was employed; a determination as to whether the Policy has been violated; the right to Appeal and Appeal procedures; and any other Remedies (if applicable) afforded to the Parties. The notice will usually be delivered electronically.
- Either party may submit an appeal of the outcome, in accordance with Section 6.0 below.
- 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 student file. Disciplinary action taken against an employee as a result of an investigation will be included in the personnel file.

#### **4.0 False Reports or Statements**

Caltech expects its members to act with honesty, sincerity, and good faith in reporting concerns under this policy. Caltech will not tolerate intentional false reporting of information, allegations, or evidence. A good faith complaint that is not substantiated by a preponderance of the evidence after an investigation is not considered a false report.

However, when a party or witness is found to have intentionally fabricated or knowingly misrepresented information, allegations, or evidence, or otherwise to have acted with an intent to deceive or mislead in any of their dealings relating to Caltech's administration of this policy, they may be subject to disciplinary action, up to and including termination or expulsion.

## **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.
- 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 notified concurrently in writing of the results of the investigation, their right to appeal and the procedures for appeal. Privacy considerations prevent Caltech from informing a complainant of any sanctions or other remedies imposed against a respondent.

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 or expulsion.

If it is determined that the allegations were brought in bad faith, appropriate action will be taken to address the situation (see section 4.0 on False Reports or Statements).

## **6.0 Appeals of Investigation Outcomes**

- Appeals by either party must be in writing, no more than five pages in length, 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, or there is new evidence which would have significantly affected the outcome that was not available at the time of the proceeding. A procedural error is an error in how the investigation was conducted. A party also may appeal on the ground that the sanction is substantially disproportionate to the findings. In appeals on the grounds that there is new evidence which would have significantly affected the outcome that was not available at the time of the proceeding, the party appealing should provide the new evidence and an explanation of why the evidence was not available during the investigation. Appeals that are not based on one or more of these grounds will not be considered and will be denied. Appeal decisions are final.
- Decisions regarding a faculty respondent may be appealed to the Office of the Provost. Decisions regarding a staff respondent, including post docs, may be appealed to the Assistant Vice President for Human Resources. Decisions regarding student respondents

may be appealed to the Vice President of Student Affairs. Decisions regarding employees at JPL may be appealed to the Director of Human Resources at JPL. Decisions of the appropriate dean for students may be appealed to the Vice President for Student Affairs.

## **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 Policy](#)
- [Unlawful Harassment and Abusive Conduct Policy](#)
- [Sex Discrimination Policy](#)
- [Procedures for Complaints of Sex Discrimination](#)
- [Violence Prevention Policy](#)