



PROCEDURE TITLE	Procedures for Reports and Investigations Under the Equal Opportunity Policy – Appendix A
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WESTMINSTER COLLEGE

Equal Opportunity Procedures – Appendix A

1. INTRODUCTION

Westminster (“**College**”) is committed to providing a safe and non-discriminatory environment for all members of the College community. The College prohibits discrimination and harassment on the basis of race, color, pregnancy, childbirth, or pregnancy-related conditions, age, religion, national origin, disability, sex, sexual orientation, gender identity, religion, military status, and genetic information, complicity, false reporting, and retaliation (collectively “**Prohibited Conduct**”).¹ These forms of Prohibited Conduct, which are defined in Section 3 of the [College’s Policy on Preventing and Addressing Discrimination and Harassment Based on Race, Color, National Origin, Religion, Disability, and other Protected Categories](#) (“**Equal Opportunity Policy**”), are unlawful, undermine the character and purpose of the College, and will not be tolerated.

This appendix identifies the procedures the College follows when it receives a report alleging Prohibited Conduct by an Employee, Student, or Third Party. The College uses these procedures to investigate and adjudicate any such allegations and to impose disciplinary sanctions against an Employee, Student, or Third Party found responsible for violating the policy.²

2. RECEIVING A REPORT OF PROHIBITED CONDUCT

The College encourages anyone who experiences or becomes aware of an incident of Prohibited Conduct by an Employee, Student, or Third Party to immediately report the incident to the College. The College’s equal opportunity representatives are responsible to receive reports of Prohibited Conduct, conduct an initial assessment of the report, and determine whether an investigation should be pursued. Contact information for the College’s equal opportunity representatives may be found on the College’s Human Resources webpage at <https://www.westminstercollege.edu/internal-content/resources-and-services/human-resources>.

3. INITIAL ASSESSMENT OF REPORT AND DETERMINATION WHETHER INVESTIGATION PURSUED

A. INITIAL ASSESSMENT

Upon receiving a report of Prohibited Conduct, an equal opportunity representative will assess the allegations to determine whether supportive measures are appropriate.

¹ In addition, The College’s Policy on Sexual Assault, Sexual and Gender-based Harassment, Gender-based Discrimination, and Interpersonal Violence prohibits discrimination or harassment on the basis of sex, gender, gender identity, gender expression, non-conformity with gender stereotypes, and sexual orientation.

² These procedures should be read in conjunction with the Equal Opportunity Policy. Capitalized terms used and not otherwise defined in these procedures are defined in the policy.



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Supportive measures may include, but are not limited to, no contact orders preventing or limiting communication, changes to academic or work schedules, limiting access to facilities or programs, administrative leave, or interim suspension. In making this assessment, the equal opportunity representative will consider the totality of the circumstances, the nature and severity of the allegations, and whether the allegations implicate a potential, ongoing safety threat to the Reporting Party or the College community. The equal opportunity representative will consult with administrators, as appropriate.

B. DETERMINATION REGARDING WHETHER INVESTIGATION PURSUED

1. Request for Investigation

When a Reporting Party requests an investigation in writing, the equal opportunity officer will consider the information provided by the Reporting Party to determine the course of the investigation, including in their discretion, whether the allegations meet the threshold of a policy violation and whether a formal investigation as described in Section 4 below will be pursued. The equal opportunity officer will also review whether the report has been timely filed. To be timely, a report must be filed within 300 days of the incident.

2. Request for No Investigation

A Reporting Party may request that no investigation be pursued. The College will seek to honor the Reporting Party's request, if it is possible to do so, while also protecting the health and safety of the Reporting Party and the College community. Where the equal opportunity officer determines that a Reporting Party's request(s) cannot be honored, they will take appropriate measures to ensure the privacy and safety of the Reporting Party.



4. INVESTIGATION

A. INVESTIGATION OF OTHER FORMS OF DISCRIMINATION OR HARASSMENT

If a report of Prohibited Conduct also implicates other conduct prohibited by the Title IX policy, the Title IX coordinator will evaluate all reported allegations to determine whether the alleged Prohibited Conduct and the alleged Title IX policy violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of Prohibited Conduct. Where the Title IX coordinator determines that a single investigation is appropriate, the investigation will be conducted in accordance with the Title IX procedures.

B. ASSIGNMENT OF INVESTIGATOR

After assessing any actual or perceived conflicts of interest and/or bias, the equal opportunity officer will cause a prompt, thorough, fair, and impartial investigation to be conducted.

C. NOTICE OF INVESTIGATION

The equal opportunity officer will notify the Complainant and the Respondent, in writing, of the commencement of an investigation. Such notice will (1) identify the Complainant and the Respondent; (2) specify the dates, times (if known), locations, and nature of the alleged Prohibited Conduct; (3) identify potential policy violation(s); (4) identify the investigator(s); (5) explain the prohibition against retaliation; (6) instruct the parties to preserve any potentially relevant evidence in any format; (7) inform the parties how to challenge participation by the investigator on the basis of bias or conflict of interest; and (8) provide a copy of the policy and these procedures. If additional prohibited conduct is alleged during the course of an investigation, a new Notice of Investigation will be issued.

D. INVESTIGATION PROCESS

1. Overview

The investigator will conduct a formal interview of the Complainant and the Respondent(s). During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, and to identify witnesses who may have relevant information. The investigator will exercise discretion in establishing the scope of the investigation. The investigator will meet with appropriate witnesses and gather other available evidence, including, but not limited to, electronic records of communications (via voicemail, text message, email, and social media sites), reports, and photographs.



2. Advisors

During the investigation, the Complainant and Respondent have the right to choose and consult with an advisor. The College offers trained advisors to help Students navigate the investigation process. The advisor may not be a party or witness involved in the investigation or a person with job duties that, under the circumstances, creates a conflict with the advisory role. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation under these procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

3. Timeframe for Completion of Investigation; Extension for Good Cause

Typically, the period from commencement of an investigation through delivery of the letters of determination to the parties will not exceed sixty (60) calendar days. The investigation commences on the date the respondent receives the Notice of Investigation. This 60-day timeframe may be extended for good cause. The equal opportunity officer will notify the parties in writing of any extension of this timeframe and the reason for such extension.

4. Findings of Fact

The investigation is a neutral fact-gathering process. Following the fact-gathering process, the investigator will make findings of fact after consideration of the evidence, credibility of the witnesses, and any other available information.

5. Investigation Summary

After the investigator has completed the investigation, they will prepare an investigation summary which will include the names and dates of meetings with Complainant, Respondent, and witnesses; a summary of evidence; credibility determinations of the witnesses and the parties; and a clear and concise statement setting forth their findings of fact. Any relevant documentation will be attached to the investigation summary.

E. DETERMINATION OF POLICY VIOLATION

Based on the findings of fact and any related evidence, the equal opportunity officer will make determinations of policy violations. Using the preponderance of evidence standard, the equal opportunity officer will determine whether it is more likely than not that the Respondent engaged in Prohibited Conduct in violation of the policy.



F. DETERMINATION OF SANCTIONS

1. Determination of Sanctions

In the event the equal opportunity officer determines by a preponderance of the evidence that the Respondent engaged in Prohibited Conduct in violation of the policy, they will determine appropriate sanctions. In determining appropriate sanctions for faculty, the equal opportunity officer will consult with the president, the provost, and the appropriate school dean, as further described in the faculty manual. In determining appropriate sanctions for staff, students, and student employees, the equal opportunity officer may consult with the executive director of human resources, chief student affairs officer, dean of students, or others as appropriate.

The equal opportunity officer will consider the following factors in determining appropriate sanctions:

- The severity, persistence, or pervasiveness of the Prohibited Conduct;
- Whether the Prohibited Conduct is violent in nature;
- The impact or implications of the Prohibited Conduct within the College community with reference to the maintenance of a safe, nondiscriminatory and respectful environment conducive to learning and working;
- Prior misconduct by the Respondent known to the College, as determined by the Respondent's relevant prior disciplinary history at the College or elsewhere;
- The sanctions that have been levied for similar Prohibited Conduct under similar circumstances in the past; and
- Any other mitigating, aggravating, or compelling factors.

Violations of the policy may result in sanctions and corrective actions, up to and including expulsion or termination of employment.

G. NOTICE OF DETERMINATION

The equal opportunity officer will provide letters of determination to Complainant and Respondent that will state whether the Respondent is responsible or not responsible for any policy violations, sanctions that will be imposed as appropriate to each party and the procedures for appealing the determination.



5. APPEAL OF DETERMINATION

A. GENERAL PROCEDURES

1. Grounds

Within five school days of receiving the determination letter, the Complainant or the Respondent may appeal the determination in writing. The grounds for appeal are the following:

- *Procedural Error* – The investigation was not conducted in accordance with these procedures and this resulted in substantial error in the determination of whether there was a policy violation.
- *Bias* – The equal opportunity officer conducted the investigation or reached a determination in a biased or partial manner.
- *New Evidence* – There is evidence which was available at the time of the determination, but unknown to the equal opportunity officer, and not in the possession of the party providing the new evidence that would substantially affect the determination.

2. Appealing Party

To appeal a determination, the appealing party must submit to the equal opportunity administrator a written statement citing the grounds for appeal and providing an explanation of their position.

3. Equal Opportunity Administrator Duties Regarding Appeal

Upon receipt of a notice of appeal, the equal opportunity administrator will:

- inform the party who has not appealed, in writing, of the appeal;
- appoint a panel of three trained staff or faculty members, without conflicts of interest, to serve as members of the appeal panel;
- provide the appeal panel the investigator's interview notes; the investigation summary, including any documentary evidence; and the determination letters.

4. Appeal Panel

Within ten (10) school days of their appointment, the appeal panel will meet at a mutually agreeable time to consider the information provided to them and to determine whether the determination should be upheld. The appeal panel has the discretion to speak to the Complainant, Respondent, witnesses, investigators, or equal opportunity officer in reaching its conclusion but is not required to do so. The appeal panel will



not review any other written evidence or documentation besides that provided by the equal opportunity administrator.

B. DECISION OF APPEAL PANEL; NO FURTHER APPEALS

1. Affirmation of Determination

If the appeal panel determines by a majority vote that there was neither bias nor failure of process, it will affirm the determination and submit its affirmation letter to the equal opportunity administrator. The determination will be final and not subject to further appeal. The equal opportunity administrator will provide the affirmation letter to the parties within five school days.

2. Procedural Error

If the appeal panel decides by a majority vote that the investigation was not conducted in accordance with these procedures, it will submit a letter to the equal opportunity administrator setting forth specific procedural error(s). The equal opportunity administrator will re-open the investigation and determine an appropriate course of action in light of the identified procedural error(s). The equal opportunity administrator will issue new determination letters and the determination may be appealed in accordance with these procedures by the party who did not file the original appeal.

3. Bias

- *Bias in Investigation* – If the appeal panel decides by a majority vote that the investigation was conducted in a biased or partial manner, it will submit a letter to the equal opportunity administrator setting forth the specific ways in which the investigation was biased or partial. The equal opportunity administrator will take such action as necessary to correct the bias or partiality, which may include assigning a new investigator(s) and/or re-opening the investigation. Once any additional fact finding is complete and a revised investigation summary is received, if appropriate, the equal opportunity administrator will issue a new determination letter and the determination may be appealed in accordance with these procedures.
- *Bias in Determination* – If the appeal panel decides by a majority vote that the equal opportunity officer was biased or partial in reaching the determination, it will submit a letter to the equal opportunity administrator setting forth the specific ways in which, in its opinion, the determination was biased or partial and requesting a review of the determination. The equal opportunity administrator will review all documentation provided to the appeal panel and issue a new determination letter and the determination may be appealed in accordance with these procedures.



4. No Further Appeal

There is no right of appeal beyond the appeal panel. Any concerns with the adequacy of an investigation can be addressed to the Department of Education, Office for Civil Rights, at OCR@ed.gov or (800) 421-3481; or the Equal Employment Opportunity Commission, at info@eeoc.gov or (800) 669-4000, as appropriate.

6. CLOSURE OF INVESTIGATION

A. NOTICE OF CLOSURE

1. Notice to Parties

Within five (5) school days of the parties' receipt of the determination letters or at the conclusion of the appeal process, the equal opportunity officer or equal opportunity administrator, as applicable, will provide the Complainant, Respondent, Reporting Party, and witnesses written notification that the investigation has been closed and that retaliation is Prohibited Conduct.

2. Notice to Provost

In the event that the Respondent is a faculty member, at the conclusion of the investigation (including the appeal process), the equal opportunity officer or equal opportunity administrator, as applicable, will provide the provost a copy of the Respondent's determination letter and a written notification that the investigation has been closed.

3. Notice to Dean of Students

In the event that the Respondent is a student, at the conclusion of the investigation (including the appeal process), the equal opportunity officer or equal opportunity administrator, as applicable, will provide the Dean of Students a copy of the Respondent's determination letter and a written notification that the investigation has been closed.

4. Notice to Executive Director of Human Resources

In the event that the Respondent is staff, at the conclusion of the investigation (including the appeal process), the equal opportunity officer or equal opportunity administrator, as applicable, will provide the Executive Director of Human Resources a copy of the Respondent's determination letter and a written notification that the investigation has been closed.



B. RECORDS RETENTION

The College will retain all records relating to a report of Prohibited Conduct, including investigation files and personnel record documentation of disciplinary or other personnel actions, in accordance with appropriate College policy.