1/16/18



FREQUENTLY ASKED QUESTIONS

Retaliation

**Related Policy:** Sexual Misconduct Policy

1. Is it retaliatory for a respondent to contact a complainant during or after an investigation?

Depending on the nature of the contact, a respondent’s contact with a complainant could be retaliation in violation of University policy. Therefore, we advise against it. In addition, a respondent’s contact with a complainant during an investigation into the complainant’s concerns could undermine the integrity of that investigation.

Where ongoing contact between the parties is necessary and appropriate, the Title IX office, AA/EEOC office or their designee can help put measures in place to mitigate that contact. For example, in some cases involving coworkers, it might be necessary and appropriate for the parties to continue some contact in the employment setting. In these cases, the Title IX office or its designee may help implement requirements that a third party be present during meetings or be copied on emails between the parties, or some other intervention. A No Contact Order can be issues to students or employees as needed.

1. Can a complainant retaliate against a respondent?

The University’s prohibition on retaliation is intended to encourage individuals to report sexual harassment, sexual assault, stalking, relationship violence and related retaliation (collectively, “misconduct” or “prohibited conduct”) and participate in prohibited conduct investigations. To retaliate against a respondent under this policy, a complainant would need to take adverse action against the respondent because the respondent reported prohibited conduct, expressed opposition to prohibited conduct or participated in the prohibited conduct investigation. A complainant’s adverse actions against a respondent for other reasons would not constitute prohibited retaliation.

1. Is it retaliation for a complainant to publicly state that the respondent engaged in prohibited conduct?

Generally not. This conduct would only constitute retaliation if done because the respondent reported prohibited conduct, expressed opposition to prohibited conduct or participated in a prohibited conduct investigation. However, a complainant’s discussion with potential witnesses about the facts underlying an investigation or the investigation process, or public dissemination of this information, could undermine the integrity of an investigation and is not recommended.

1. Can a respondent retaliate against a complainant even if the campus decision authority or its designee determines that the respondent did not violate the prohibited conduct policy as the complainant alleged?

Yes. Retaliation against a complainant for making a prohibited conduct report is prohibited even if the campus decision authority or its designee determines that the respondent did not engage in prohibited conduct in violation of University policy.

For example, Person A makes a sexual harassment complaint against Person B. In response to Person A’s complaint, Person B makes derogatory comments about Person A in an email to the entire department and writes a threatening email to Person A. The Title IX office or AA/EEOC office investigates the complaint and the campus decision authority determines that Person B did not engage in sexual harassment. Nevertheless, the campus decision authority may find that Person B took an adverse action against Person A because of Person A’s complaint, in violation of the University’s anti-retaliation policy.

1. Does the retaliation policy apply to witnesses?

Yes. Witnesses are both protected from being retaliated against for their participation in a prohibited conduct investigation and prohibited from engaging in retaliation against others.

1. What should I do if I believe I am being retaliated against?

We encourage you to contact the campus Title IX office or AA/EEOC if you believe you are experiencing retaliation. Employees may also contact their supervisor or Human Resources.