

Handbook for Chapter 39 Formal Procedures

Conflict and Dispute Resolution and Harassment Prevention Policy

1. Introduction

The following Handbook sets forth the formal complaints procedures, in accordance with Chapter 39 of the University's PRP.

2. Definitions and Key Terms

- **Appeal** – As defined in section 7.2 of this Handbook.
- **Bullying** – as defined in Chapter 39.
- **Complainant** - any individual who files a Complaint under Chapter 39 and is subject to the University's policies or jurisdiction, including employees, students, and other individuals formally associated with the University, such as visiting researchers, contractors, and volunteers, during their term of employment, engagement, or affiliation, and for three months following the conclusion of such employment, engagement, or affiliation.
- **Complaint** - a formal complaint filed under Chapter 39.
- **General Counsel** – The University General Counsel
- **Harassment** – as defined in Chapter 39.
- **Investigation Committee** – A committee established according to paragraph 7.5 ("Investigation Committee") of Chapter 39 and section 5.1 of this Handbook.
- **Investigation Committee Report** – A report prepared and submitted by the Investigation Committee according to paragraph 7.5 ("Investigation Committee") of Chapter 39 and section 5.3 of this Handbook.
- **Receipt Date** – as defined below in section 3.3 of this Handbook.
- **Relevant Parties** – The Complainant, the Respondent, and any other individuals directly impacted by a Complaint's investigation process filed under Chapter 39.
- **Respondent** - any individual against whom a Complaint has been filed under Chapter 39 and subject to the University's policies or jurisdiction. This includes employees, students, and other individuals formally associated with the University, such as visiting researchers, contractors, and volunteers, during their term of employment, engagement, or affiliation.
- **VPHR** – The University Vice President for Human Resources

3. Formal Complaint Process

3.1 General

- **Prompt and Diligent Resolution** - Complaints should be handled with care, and efforts should be made to resolve or decide each case as promptly as possible.
- **Confidentiality of Records and Communications** - The formal complaint process and related communications and records must be treated as confidential and classified as sensitive personal data. Information sharing should be minimized.
- **Duty to Comply** - Employees, students, and any individual bound by the University's policies, are expected to collaborate with the VPHR or the Investigation Committee to ensure fairness and provide the necessary information.
- **Justification and Documentation** - Decisions must be justified and documented in accordance with the University's established rules to ensure accountability and transparency.
- **Time Extensions** - Extensions may be granted beyond the specified periods mentioned in this Handbook if there is a justifiable ground, subject to approval by the VPHR. Such extension should be communicated in writing to the Complainant and, if applicable, to other relevant parties.

3.2 How to File a Complaint

- **Written Form and Mandatory Details** - Complaints must be submitted in written form, attached as **Appendix 1**.
- **When to submit the Complaint** - To allow an efficient and fair review of the matter for all parties involved, formal complaints should be filed as soon as it is reasonably practicable after the subject matter of the complaint arises. A delay in bringing up a matter in due time (in normal circumstances, within three months after the subject matter of the complaint arises) may impact the ability to resolve the matter equitably.
- **Submission Process** - To ensure timely and accurate processing, formal Complaints should be emailed to formalcomplaint@oist.jp.

3.3 Initial review

- Within two working days from the submission of the Complaint, HR Management Section shall acknowledge receipt of the Complaint ("**Receipt Date**")
- Within three working days from the Receipt Date, the HR Management Section will review the Complaint to ensure all necessary information is included and will notify the Complainant that the Complaint was properly submitted or if any mandatory details are missing. In case additional mandatory details are missing, the Complainant may refile the Complaint with the additional mandatory information, and the Receipt Date will be set accordingly.

- Within ten working days from the Receipt Date, the VPHR will review the Complaint. Before deciding how to process the Complaint properly, the VPHR will – according to the subject matter of the complaint - consult with relevant University executives (for example, in matters that involve academic staff or students, the VPHR will consult the Provost, the Dean of Faculty Affairs, or the Dean of the Graduate School). The VPHR will make the following decisions and inform the Complainant accordingly:
- **Refer to Another University Body** - If the main issue of the Complaint is not covered under Chapter 39, it may be referred to the appropriate University body for further action. For example, Academic, scientific, research misconduct, or non-compliance issues are covered under PRP Chapter 23; Conflict of interest issues are covered under PRP Chapter 22.
- **Suggest Alternative Dispute Resolution (ADR)** - According to the circumstances, suggest that the parties consider using ADR or explore possible ways of resolving the matter amicably.
- **The VPHR, in conjunction with the Dean of Faculty Affairs, shall determine the appropriate procedural path for complaints that fall within the scope of this Chapter.** The joint decision will be to pursue one of the following options:
 - **Handle the complaint directly by the VPHR** to ensure timely handling, encourage amicable solutions, or pursue a simplified resolution.
 - **Establish a formal Investigation Committee by the VPHR** for matters involving serious allegations, complex facts, or other circumstances that justify a formal investigation.

In the absence of a joint agreement on the procedural path, a formal Investigation Committee shall be established.

- If justifiable ground exists, the VPHR may extend the periods mentioned above. Such extension should be communicated in writing to the complainant and, if applicable, to other relevant parties.

4. Complaint Resolution by the VPHR in Matters that do not require an Investigation Committee

- Complaints that do not require an Investigation Committee should be resolved or decided by the VPHR within 30 working days of the Receipt Date.
- If necessary, the VPHR may extend the timeline by up to 30 working days each time. Any extension must be documented, justified, and communicated in writing to the complainant and, if applicable, to other relevant parties.
- In deciding on the matter, the VPHR may collect additional information, meet with relevant parties, review documents, and will consult – according to the subject matter of the complaint - with relevant University executives (for example, in matters that involves

academic staff or students, the VPHR will consult with the Provost, the Dean of Faculty affairs, or the Dean of the Graduate School). The VPHR may consider any unreasonable delay in bringing up the subject matter of the Complaint (for example, if such a delay significantly harmed the ability to investigate the Complaint effectively).

- Communication will be limited to a need-to-know basis and will be done in a way that protects the privacy of the individuals involved.
- The VPHR will ensure a fair and balanced process that respects the rights of both the Complainant and the Respondent.
- The VPHR's decision on the outcome of the Complaint will be documented in writing and communicated to the Complainant, and if applicable, to the Respondent, and any other relevant parties. The level of detail disclosed will depend on the nature of the case and any considerations such as privacy and transparency.

5. Investigation Committee Process

5.1 Investigation Committee Establishment

- In cases where, according to the initial review by the VPHR [see 3.3 above], it is necessary to establish an Investigation Committee, the VPHR will do so within 30 days of the Complaint Receipt, as outlined in the provisions below. If justifiable grounds exist, the VPHR may extend the period mentioned above. Such extension should be communicated in writing to the complainant and, if applicable, to other relevant parties.
- The VPHR should ensure a fair and equitable process by the Investigation Committee, ensuring that all parties are treated impartially.
- For complaints involving University executives, the VPHR will refer the matter to the President. If the Secretary-General or President is implicated, the matter will be referred by the VPHR to the Chair of the Board of Governors, who will determine the appropriate course of action, which may include the appointment of an external investigation committee. Provisions of Chapter 39 and this Handbook will apply with necessary modifications to ensure neutrality and avoid conflicts of interest. Investigations in such cases may be expedited to minimize disruption and safeguard institutional integrity.
- The VPHR will send appointment letters to the Investigation Committee members and confirm their availability and consent to serve as an Investigation Committee member. The Investigation Committee will be deemed established following the confirmed appointment of the Committee Chair and at least two additional Committee members appointed in accordance with the provisions of Chapter 39 and this Handbook.

5.2 Investigation Committee Composition

- The VPHR will determine the composition of the Investigation Committee and appoint the chair of the Investigation Committee, considering the nature of the Complaint and other relevant factors, such as gender balance, language proficiency, specific skills, position level, and any perceived or potential conflicts of interest (COI).
- The Investigation Committee will consist of three to five members and a secretariat. Subject to the above considerations, the recommended composition of the Investigation Committee shall be as follows:
 - **At least** one member from the faculty.
 - **At least** one representative from the administrative staff, level A5 or above.
 - One external lawyer.
 - A designated HR representative will be the secretariat, managing the Investigation Committee documentation and coordination.

In exceptional circumstances, and where justified by the sensitivity or nature of the case, the VPHR may decide not to include a faculty member or an administrative staff member in the composition of the Investigation Committee. Such a decision shall be documented in writing, with a brief justification.

- **Investigation Committee Chair** - The VPHR will appoint one committee member as the chair of the Investigation Committee.

5.3 Duties and Responsibilities of the Investigation Committee Members

- The Investigation Committee members must act fairly and equitably, ensuring confidentiality, with information shared strictly on a need-to-know basis. The members must use their best judgment in accordance with the University's PRP and this handbook's provisions, acting with diligence and due care.
- The Investigation Committee members must disclose any actual or perceived conflicts of interest that may arise before or during the investigation process.
- The chair is responsible for:
 - Overseeing a fair and balanced process for all parties, safeguarding the Complainant's and Respondent's rights, including any possible concerns of the parties regarding actual or perceived conflict of interest of the Investigation Committee members.
 - Ensuring that the Investigation Committee adheres to the University's Policies, Rules, and Procedures and this Handbook.

- Facilitating communication between the VPHR, the Investigation Committee members, and all involved parties.
 - Maintaining records throughout the investigation process.
 - Prepare and submit the Investigation Committee Report to the VPHR.
- Before the commencement of any investigation, all members of the Investigation Committee must be familiar with Chapter 39 of the PRP, including this Handbook, and understand their roles, duties, and responsibilities.

6. The Investigation Process

6.1 Timeline

- The Investigation Committee will complete the investigation and submit the Investigation Report to the VPHR within 30 working days from the date on which the Investigation Committee was established.
- The VPHR may extend the above timeline, with a written justification, each time, by up to 30 working days.
- The Investigation Committee will update the relevant parties about any change in the Investigation Committee timeline.

6.2 Interview Procedures - General:

- The Investigation Committee will interview the relevant parties and witnesses according to the provisions below. However, the Investigation Committee may adjust the order of interviews based on its discretion and according to the circumstances.
- The Investigation Committee will ensure the confidentiality of the interviews.
- The Investigation Committee will remind each interviewee to maintain confidentiality and cooperate with the Investigation Committee. The Investigation Committee will also remind each interviewee that the University prohibits retaliation against any parties involved.
- The Investigation Committee will inform all interviewees about their rights and available support resources.

6.3 Interview Procedures - Interviews:

- **The Complainant:** The Investigation Committee will provide the Complainant with relevant information about the investigation process and invite the Complainant to participate in an interview with the Investigation Committee. The names of the Investigation Committee members will be disclosed prior to or at the time of the interview. The complainant should provide details, identify witnesses, and submit evidence.

- The Investigation Committee shall also inform the Complainant about their responsibility to maintain confidentiality throughout the process.

If the Complainant has reasonable grounds to believe that any member of the Investigation Committee may present a conflict of interest, they may raise this concern with the Chair of the Investigation Committee.

- **The Respondent:** The Investigation Committee will inform the Respondent that a complaint has been filed and that a formal investigation will proceed. The Investigation Committee will invite the Respondent to participate in an interview with the Investigation Committee. The names of the Investigation Committee members will be disclosed prior to or at the time of the interview.

The Investigation Committee will present the Respondent with the full content of the Complaint to the extent appropriate, unless the committee determines that certain details must be withheld to protect the procedure's integrity, safeguard individuals involved, or prevent undue interference with the process.

The Investigation Committee will interview the Respondent and allow the Respondent to provide their response to the Complaint. The Investigation Committee will enable the Respondent to present relevant evidence and to suggest relevant witnesses.

- The Investigation Committee shall also inform the Respondent about their responsibility to maintain confidentiality throughout the process.

If the Respondent has reasonable grounds to believe that any member of the Investigation Committee may present a conflict of interest, they may raise this concern with the Chair of the Investigation Committee.

- **The Witnesses:** Based on the Complaint and the interviews of the Complainant and the Respondent, the Investigation Committee will interview the relevant witnesses.

Witnesses will be informed of the purpose of the interview and reminded of their obligation to maintain confidentiality and cooperate with the process.

- **Follow-Up Interviews:** The Investigation Committee may conduct follow-up interviews with the parties involved or relevant witnesses to clarify facts, address discrepancies, or corroborate information. The Investigation Committee will not allow any new claims at this stage.

6.4 Documentation

- The Investigation Committee must keep records of the interviews and log any evidence collected during the process (including digital and/or physical information). The records

should include, among others, the date, time, location, names, and roles of participants in the interview, questions, and responses.

- The Investigation Committee must keep records of key decisions regarding the investigation.

6.5 Access to Records

- **Investigation Committee Access:** Access to the Investigation Committee records is restricted to the Investigation Committee members, the VPHR, and the General Counsel.

6.6 The Investigation Committee Report

- The Investigation Committee shall prepare a report summarizing its findings and recommendations. The report should include the following details:
 - **Background and Scope:** A brief description of the Complaint and the scope of the investigation.
 - **Methodology:** A summary of the process followed by the committee, including interviews conducted, documents reviewed, etc.
 - **Findings:** The facts, evidence, and information considered.
 - **Conclusions:** An assessment of the evidence concerning the policies or standards applicable, and the committee's impressions and reasoning.
 - **Recommendations:** Clear and actionable suggestions for resolving the matter, addressing the underlying issues, and preventing recurrence (including possible suggested disciplinary actions, according to the Rules on Disciplines, etc. for Employees). These recommendations should remain within the scope of the committee's mandate.
- The Investigation Committee Report should be signed by all committee members and submitted to the VPHR for review and further action.

6.7 Decision Based on the Investigation Committee Report

- Within 14 working days of receiving the Investigation Committee Report, the VPHR will issue a written decision. The VPHR's decision on the outcome of the Complaint will be based on the Investigation Committee Report and other relevant factors.
- The VPHR's decision on the outcome of the Complaint will be communicated to the Complainant, the Respondent, and any other relevant parties.
- If necessary, the VPHR may extend the period for decision with a written justification by up to 14 working days each time.

7. Appeal Process

7.1 General

- The Complainant or the Respondent may appeal the decision of the VPHR. The Appeal is limited to reviewing potential fundamental deficiencies in handling the Complaint, the fact-finding, or the decision-making.
- The Appeal process does not allow for new claims or evidence unless the evidence directly pertains to the original Complaint and could not have been reasonably presented earlier.

7.2 Filing an Appeal

- The Appeal must be submitted to the Secretary General in writing within ten working days from the date the VPHR's decision was communicated (The **"Appeal"**).
- The Appeal must specify:
 - a) The basis for the Appeal detailing alleged procedural errors or factual inaccuracies.
 - b) How did the alleged errors or inaccuracies significantly impact the decision.

7.3 Appeal Review

- The Appeal will be reviewed by the Secretary General or, in case the Secretary-General is in conflict of interest, by a designated senior executive or external expert appointed by the President.
- The Secretary General (or the designated appointee) will assess whether the process was followed correctly and whether the decision was reasonable based on the available evidence and findings.
- Within 14 working days of receiving the Appeal, the Secretary General will issue a written decision. The decision will be communicated to the Complainant, the Respondent, and the VPHR.

7.4 The outcome of the Appeal:

- The Secretary-General (or the designated appointee) may decide as follows:
 - a) If no significant errors were identified, reject the Appeal and uphold the VPHR's decision; or b) If significant errors were identified and such errors materially impacted the outcome: (i) modify the VPHR's decision; (ii) return the matter to the VPHR for reconsideration with specific recommendations.
- The decision made by the Secretary General (or the designated appointee) in the Appeal becomes final with the concurrence of the President.

8. Review and Amendments

- The Handbook will undergo a formal review by the HR Management Section every three years.

- The review will ensure the Handbook remains effective, fair, and aligned with all legal requirements, organizational values, and objectives, and reflecting feedback from stakeholders and lessons learned from past applications.
- The President must approve any amendment to the Handbook.