



## **COMPLAINT REVIEW PROCESS**

### **OVERVIEW**

The College encourages resolution of complaints in an atmosphere of mutual respect. Any form of retaliation for bringing forward a complaint or participating in a complaint process will not be tolerated. The complaint process typically applies to all students, employees, applicants for admission or employment, visitors, volunteers, and contractors. Information concerning the nature, scope, evaluation, and resolution of complaints shall be kept confidential to the greatest extent possible and will be shared on a need-to-know basis.

A complaint is a request for assistance with a problem, conflict, concern, or issue alleged to negatively impact students, employees, the community and/or the College. If the allegations of the complaint do not indicate a possible violation of policy, law, administrative procedure (AP), or other published College standard like a handbook, ODR will assist by connecting the complainant with the appropriate College resource, employee, or employee group (i.e., employee relations, supervisor, campus designated contact person, etc.) or other follow-up as needed.

If the complaint demonstrates a potential violation of policy, law, administrative procedure (AP), or other published College standard like a handbook, ODR will initiate the applicable review process. This process could include investigation and/or coordination with other College departments. Complaints against the Chancellor will be addressed in accordance with AP 2.03.01, Discrimination, Harassment, and Retaliation – Prevention and Complaint Procedures. Complaints alleging Title IX Sexual Harassment as defined in AP 2.03.01 will be addressed in accordance with Section 14 of that AP. Student complaints will be referred to the appropriate decision-maker, per AP 3.31.01 Student Complaints, with ODR providing review support as necessary.

### **INFORMAL RESOLUTION**

The College encourages resolution directly among those involved in the issue. Either party may seek assistance from an appropriate College employee or office; examples include – but are not limited to – a supervisor, a mutually trusted colleague, Human Resources (HR) Department, or ODR.

Concerns should be expressed to the individual(s) involved as soon as possible from the time the issue arises. The parties should consider reasonable solutions to resolve the concern consistent with College policies and procedures. The outcome should only be shared on a need-to-know basis with affected parties, and for employee issues with Employee Relations to memorialize the agreed-upon resolution. The College recognizes that some situations are not appropriate for informal resolution if they present a risk to the health and safety of College community members. If the concern cannot be resolved by mutual agreement, the formal complaint process should be considered.

### **FORMAL COMPLAINTS**

Concerns that cannot be addressed by informal resolution should be referred to the formal complaint process. Because delays in reporting complaints may negatively impact the College's ability to assess the allegations, formal complaints should be brought forward as soon as possible, preferably within ten (10) days. Complaints may be submitted via any of the options listed on the ODR website:

<https://pima.edu/administration/dispute-resolution/index.html>

Documentation of the complaint should include:

1. A detailed description of the issue and the negative impact- who was involved, what happened, where did the event(s) take place, what were the impacts, and why were the reported actions taken.
2. The names of individuals with direct knowledge of the alleged incident(s).
3. Specific policy, procedure, or standard alleged to have been violated.
4. Any documentation which supports the allegations such as email, texts, chats, photos, etc.
5. The resolution sought.

Complaints received anonymously via the College's hotline will be acknowledged. The EthicsPoint online reporting option allows ODR to communicate with the complainant while maintaining the complainant's anonymity. It should be noted other forms of anonymous complaints, such as letters, restrict ODR's ability to obtain additional information.

The formal complaint process, including a final decision and resolution may take up to ninety (90) calendar days. However, some complaints may require an extended time-period. ODR will keep the parties updated on case status.

### **CONFLICTS OF INTEREST OR BIAS**

ODR is committed to addressing complaints, grievances, and concerns in an independent, fair, and objective manner. However, if either party believes ODR personnel processing a complaint have a conflict of interest or bias that would impact their ability to review a complaint in an impartial manner, the individual(s) shall provide ODR with a written explanation of the conflict of interest or bias concern, which shall be forwarded to the College's Office of General Counsel. To resolve an actual or perceived conflict of interest or bias, the complaint may be assigned to a different reviewer. In some instances, the College may retain an outside reviewer to investigate the complaint.

### **REVIEW PROCESS**

ODR reviews complaints to determine the most appropriate fact-finding process and the most appropriate decision-maker. ODR may engage other departments within the College or seek external assistance as part of the complaint resolution process. After the initial review, ODR will inform the complainant of the steps that will be taken to address the complaint. The primary role of ODR is to provide the appropriate decision-maker with sufficient information to determine a suitable resolution. At any time during a review process that ODR becomes aware of information that indicates a potential risk to safety, ODR will refer such information to an appropriate College office or law enforcement.

The steps taken during the review of a Title IX complaint may vary in order to comply with the specific requirements related to that law. See AP 2.03.01.

If ODR determines an investigation is appropriate, ODR will take one or more of the following steps:

1. Develop an investigation plan.
2. Determine if interim measures are required.
3. Memorialize all evidence collected, including recording interviews in a secure database.
4. Define the communication process: determine when to inform parties affected by the complaint and investigation and the best method of communication.
5. Update complainant and respondent of the status of the investigation, as necessary.
6. Maintain appropriate documents in the complaint tracking database, EthicsPoint.

At the conclusion of the investigation, ODR will prepare a report summarizing the evidence and sharing the findings on the allegations. ODR will provide the report to the decision-maker and unit responsible for implementing any corrective action. ODR will also notify the complainant and respondent of the outcome of the investigation. Other parties may be informed of the closure on a need-to-know basis.

## **ROLES**

### **Complainant**

The complainant is the individual expressing concern about a situation related to the College and negatively impacting the individual or others affiliated with the College.

### **Respondent**

The respondent is the individual or individuals identified by the complainant as having engaged in conduct that may have violated one or more College standards and that had or likely will have a negative impact on others.

### **Witness**

A witness is an individual who may have information about the events, standards, or individuals related to a complaint.

### **Employee Advisor**

Any complainant, respondent, or witness who is also a College employee may select another employee as an Employee Advisor (EA) during the complaint review process. As a condition of serving, the EA will be required to sign an acknowledgment form indicating they understand and agree to abide by the parameters of their role, as well as confidentiality and training requirements.

A person with another role in the complaint process (i.e., complainant, respondent, witness, decision-maker, etc.) may not serve as an EA. An EA with legal training or who is an attorney may not act in the capacity of an attorney. The EA may not make decisions on behalf of the employee they are assisting; the EA may act as an observer, note-taker, or confidante. The EA may assist by clarifying information or asking questions to clarify the information or process but is not intended to speak in place of the employee except when rare circumstances preclude adequate self-representation. If the EA is disruptive or detrimental to the progress of the meeting, the EA may be requested to leave the meeting.

Additional advisor information can be found here:

<https://pima.edu/administration/human-resources/employee-handbook/docs/employee-advisor.pdf>

### **Decision-maker**

The decision-maker is the College employee responsible for determining whether there has been a violation of a College standard and the appropriate corrective action. The decision-maker is typically in the line of supervision of the respondent.

## **ODR RECORDS**

Records received or created by ODR related to a complaint are maintained in a secure database. ODR shares records from the database on a need-to-know basis. For example, depending on the specific circumstances of a particular complaint, records and information might be shared with HR, a supervisor, the Title IX

Coordinator, or others involved in determining or implementing corrective action. Some records related to a complaint review may also become part of a personnel file, student records, or other sets of records maintained by another unit of the College. While ODR observes confidentiality, it is also possible that records could be subject to disclosure in response to a public records request. Questions about the disclosure of records in a particular case should be directed to ODR.

### **INVESTIGATION REPORT APPEALS**

Only the complainant and respondent may appeal the findings of an ODR investigation report. The appeal must be submitted to ODR, in writing, within **ten (10) calendar days** of the issuance of the investigation report and must include all materials and information in support of the appeal, including specific factual examples and the specific policy or standard that supports their appeal. Parties may appeal on two grounds: (1) a procedural error that would change the findings, or (2) the presence of information that was not available at the time of the investigation and would change the findings.

#### **Non-Qualifying Appeals**

Challenges to an investigation report that do not qualify for appeal:

- Disagreement with the investigation findings such as:
  - whether an allegation is substantiated
  - whether the conduct violated policy
  - whether the testimony of one witness should be believed over another
  - whether the investigator failed to consider relevant evidence

These types of issues should be addressed with the decision-maker rather than ODR.

- Claims an ODR investigation was not conducted in an independent, fair, and objective manner. These claims will be forwarded to the ODR investigator's immediate supervisor.

#### **Qualifying Appeals**

A procedural violation that would have a material impact on the outcome examples could include:

- Improper interference with the employee's right to an Employee Advisor
- Not properly advising a party of their roles, rights, and responsibilities
- Improper disclosure of confidential information by the investigator

ODR maintains a pool of appeal reviewers. ODR will send the appeal and case materials to a designated reviewer, who is not in the same business unit as either the complainant or respondent. Within five (5) calendar days of receipt, the reviewer shall notify the appealing party whether the appeal states qualifying issues and provides sufficient information to accept the appeal. The reviewer may request additional information from any participant in a complaint review process, which shall be provided within five (5) calendar days. Failure by the appealing party to timely submit additional information may result in the dismissal of the appeal. The reviewer will generally issue a written decision within ten (10) calendar days of receiving a complete appeal. If the reviewer agrees with the appeal, their decision will specify the additional steps to be taken. If the appeal review determines further investigation is needed, ODR will issue a supplemental investigation report following any additional investigation. The reviewer will send their decision to ODR and each of the parties. A new investigation will not be conducted by any party reviewing an appeal.

For good cause, the reviewer may extend any of the appeal timelines and give written notice of the extension to ODR and the parties. Good cause includes but is not limited to unusually complex issues; large volume of evidence to review; unavailability of a party needed to provide clarifying information.

**MORE INFORMATION**

For questions about any aspect of the ODR Complaint Review Process, or to file a complaint:

Call ODR directly at 520-206-4686

Email us at [resolution@pima.edu](mailto:resolution@pima.edu)

File a report on the hotline

Go online to [Compliance and Ethics Hotline](#)

Call toll-free at 1-855-503-8072

**HELPFUL LINKS**

[ODR webpage](#)

[Administrative Procedures Main Page](#)

[Discrimination, Harassment, and Retaliation - Prevention and Complaint Procedures](#)

[Student Complaints](#)

[Employee Handbook](#)