

STANDARD OPERATING PROCEDURES FOR DISCRIMINATION COMPLAINTS (STOP-D)

Office of Equal Opportunity

Purpose: This is the investigation and adjudication process which corresponds to the Non-Discrimination Policy [LINK](#) for Complaints related to discrimination, harassment, sexual misconduct and/or related retaliation based on protected categories and intersecting identities for the purpose of promptly, adequately, reliably, fairly and impartially investigating and addressing Complaints of discrimination, harassment, sexual misconduct and/or related retaliation. Protected categories include: an individual's real or perceived: race (including traits historically associated with race, such as, hair texture, hair type, hair length and protective hairstyles); color; national and/or ethnic origin; ancestry and/or shared ancestry; age; religion and/or creed; disability (including record of disability); sex (including sex stereotypes and sex characteristics); gender, gender identity and/or expression (including a transgender identity), sexual orientation; pregnancy and related conditions; parental, family and marital status; military or veteran status; genetic information; the intersection of these aforementioned identities and any other characteristic protected under applicable federal, state or local law. For more information about these protected categories, please see the Non-Discrimination Policy. [LINK](#)

Applicability: Effective August 1, 2024, the STOP-D applies to student, staff, faculty, job applicants, applicants for admission and third parties (including visitors, patients, contractors, vendors and community members as defined in the Non-Discrimination Policy) and any allegations of discrimination, harassment, sexual misconduct and/or related retaliation, prohibited under the 2024 Non-Discrimination Policy (the "Policy") [LINK](#). This prohibited conduct reported must have occurred on or after August 1, 2024.¹ Excluded from this process document are Complaints of sex/gender-based harassment, sexual misconduct and/or related retaliation involving a student which are addressed pursuant to the Sexual Misconduct Adjudication Process for Students (SMAPS) [LINK](#).

Process owner: Executive Director of the Office of Equal Opportunity and Title IX Coordinator, Jill Zellmer, at 617.627.3298 or Jill.Zellmer@tufts.edu.

Revised: August 1, 2024

¹ For reports of discrimination, harassment, sexual misconduct and/or related retaliation reported to have occurred prior to August 1, 2024, see Pre-August 2024 policies and procedures at [LINK](#). Please also note if any community member is working or studying in a state in which the Title IX regulations have been enjoined, these procedures and the associated policy may not apply. In this case, please review the Pre-August 2024 [LINK](#) policies and discuss with the Executive Director of the Office of Equal Opportunity.

I. OVERVIEW

Tufts takes all Complaints seriously. OEO is required by law to address Complaints and does so through this corresponding process. The Standard Operating Procedures for Discrimination Complaints, STOP-D, is the adjudication process for Complaints of discrimination, harassment, sexual misconduct and/or related retaliation based on protected categories and intersecting identities for the purpose of promptly, adequately, reliably, fairly and impartially investigating and addressing Complaints of discrimination, harassment, sexual misconduct and/or related retaliation brought under the Non-Discrimination Policy. [LINK](#) STOP-D applies to prohibited behavior occurring on or after August 1, 2024.¹

Protected categories include: an individual's real or perceived: race (including traits historically associated with race, such as, hair texture, hair type, hair length and protective hairstyles); color; national and/or ethnic origin; ancestry and/or shared ancestry; age; religion and/or creed; disability (including record of disability); sex (including sex stereotypes and sex characteristics); gender, gender identity and/or expression (including a transgender identity), sexual orientation; pregnancy and related conditions; parental, family and marital status; military or veteran status; genetic information; the intersection of these aforementioned identities and any other characteristic protected under applicable federal, state or local law. For more information about these categories please see the Non-Discrimination Policy. [LINK](#)

This alleged conduct may also implicate other Tufts policies such as the [Relationships with Students Policy](#) and the [Working with One Another Policy](#) among others and depending on the nature of the allegations.

II. Before Filing a Complaint

The decision to file a Complaint for investigation and adjudication can be complicated and challenging. The OEO's [Explanation of Informal Process Options](#) as well as the [Resources and Supports](#) document offer community members information about their options before and after filing a Complaint. Community members who wish to discuss concerns about discrimination, harassment, sexual misconduct and/or related retaliation may also consult with [on- or off-campus resources](#), as described in the Non-Discrimination Policy. [LINK](#) Some offices are confidential and are noted as such in this and other related documents.

Community members can also discuss resources, supports and process options with a member of the [OEO](#). More information about anonymous and confidential reporting and about [Complaint processing options](#) and resources, is provided on the OEO website OEO.Tufts.edu.

¹ For Complaints of sex/gender-based harassment, sexual misconduct and or related retaliation involving a student, the Sexual Misconduct Adjudication Process for Students (SMAPS) [LINK](#) will apply if the prohibited conduct occurred on or after August 1, 2024.

III. Resources and Supports

Any member of the Tufts community has the right to raise concerns or make a Complaint regarding discrimination, harassment and sexual misconduct without fear of retaliation. Tufts will offer and coordinate supportive measures and/or [Resources and Supports](#), as appropriate for the complainant, respondent or any party otherwise impacted by reports of prohibited conduct regardless of the initiation of a STOP-D. For more information about [Supportive/Interim measures](#).

IV. Timelines

Following receipt of a Complaint of discrimination, harassment, sexual misconduct or related retaliation, Tufts will conduct an [Assessment of the Allegations](#) and, if appropriate, proceed with a STOP-D to the extent possible and appropriate according to the circumstances for each case and/or may refer alleged conduct to be reviewed under a different policy, if relevant. Tufts' goal is to complete the adjudication of Complaints filed within 120 University business days from the receipt of the Complaint. Please see the [flowchart](#) of the STOP-D process.

Tufts will make every effort to continue its investigation during academic breaks or between academic years, unless doing so would impact witness availability or otherwise compromise the investigation. The OEO reviews each case uniquely and the formal process sometimes varies based on allegations, scope and other factors. In most cases, OEO endeavors to complete the investigative process in approximately 120 University business days, though reasonable extensions of timeframes on a case-by-case basis for good cause may occur (e.g. many key witness interviews, voluminous evidence, or investigations that require working with a subject matter expert), including the complexity of the case and availability of parties and witnesses. Both parties will be provided with notice of reasonable extensions which include the reason for the delay. Parties are encouraged to contact the Investigator for a status update at any time.

There is no time limit for the submission of a Complaint under the STOP-D. A Complaint may be filed at any time and will be pursued if Tufts has disciplinary authority over the respondent. Although Tufts will investigate and adjudicate Complaints to the best of its ability, sometimes the passage of time may have an impact on the availability and quality of information about the discrimination, harassment, sexual misconduct and/or related retaliation, limiting both the University's ability to investigate and/or the types of sanctions that can be applied.

V. TYPES OF DISCRIMINATION AND RELATED DEFINITIONS

Discrimination, harassment, sexual misconduct and related retaliation based on membership in a protected category generally occurs when a person is treated in an adverse way and/or differently than other individuals because of the person's real or perceived membership in a protected category. Broad categories of discrimination are described below.

Different Treatment: Different treatment based on a protected category is the unequal or different treatment of an individual or group because of the protected category. To investigate different treatment, the OEO will assess whether: 1) the allegations concern an individual who is a member of a protected category or who is perceived as such; and, if so 2) whether there is

information to support that the individual was treated differently due to their perceived or real protected category/ies. In certain cases, it may be appropriate for OEO to investigate allegations of different treatment by examining whether individuals were treated differently than similarly situated individuals who do not share their protected category/ies. In such a circumstance, if there was disparate treatment, OEO will examine whether there was a legitimate, non-discriminatory reason for the different treatment and, if so, whether the proffered reason was a pretext for discrimination. See *Examples of Different Treatment Discrimination Prohibited in the Policy*.

There are the limited exceptions in which the law and therefore Tufts may permit different treatment or separate benefits based on sex (i.e. same-sex housing or athletic teams) https://oio.tufts.edu/wp-content/uploads/NCAA_Policy_Attestation_Procedure.pdf.

Harassment: Harassment is any unwelcome oral, written, graphic or physical conduct related to a protected category (see the protected categories in the Non-Discrimination Policy [LINK](#) and the Non-Discrimination Statement [LINK](#)) that is sufficiently severe or pervasive to create a hostile environment. See *Examples of Harassment Prohibited in the Policy*. Sex/gender-based harassment and other forms of sexual misconduct are forms of harassment and are separately defined under this Policy.

Hostile Environment based on a protected category: Harassment based on a protected category can lead to a hostile school and/or work environment when the conduct is: 1) under the totality of the circumstances, evaluated subjectively and objectively, 2) unwelcome, 3) based on a protected category and 4) determined to be so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the Tufts employment and/or education program or activity. See *Examples of Hostile Environment Discrimination Prohibited in the Policy*.

Determining whether conduct has created a hostile environment is a fact-specific inquiry which may include many factors such as, but not limited to: 1) the degree to which the conduct affected the complainant's ability to access Tufts' employment and/or education program or activity; 2) the type, frequency, and duration of the conduct; 3) the parties' roles, previous interactions and other factors about each party which may be relevant to evaluating the effects of the alleged unwelcome conduct; 4) the location and context in which the conduct occurred; and 5) other similar conduct in the Tufts employment and/or education program or activity.

Simple teasing, off-hand comments and isolated incidents of disrespect generally will not create a hostile environment under this Policy. The [Working with One Another Policy](https://oio.tufts.edu/wp-content/uploads/WorkingWithOneAnotherPolicy.pdf) <https://oio.tufts.edu/wp-content/uploads/WorkingWithOneAnotherPolicy.pdf> may apply more to off-hand or isolated incidents of disrespect and to conduct not related to a protected category. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment based on protected category/ies. OEO reserves the right to address lesser conduct in an informal way to prevent future and more serious conduct from occurring.

Retaliation: Any member of the Tufts community has the right to raise good faith concerns about or file a good faith complaint of discrimination, harassment and sexual misconduct under this policy without fear of retaliation. Raising good faith concerns and filing claims, Complaints,

or charges of discrimination, harassment, sexual misconduct and related retaliation are considered protected activities.

Specifically, with regard to the Policy, related retaliation is a prohibited action which includes taking adverse action against an individual(s) who: 1) raised or reported a concern about discrimination or who filed Complaint(s) under the Policy, or 2) filed claim(s), complaint(s), and/or charge(s) under applicable local, state, or federal law(s); 3) is suspected of having filed Complaint(s) under the Policy or having filed claim(s), complaint(s), or charge(s) under applicable local, state, or federal law(s); 4) participated in an informal resolution process or investigation of discrimination, harassment, sexual misconduct and/or related retaliation; 5) is a student who refused to participate in a sex/gender-based harassment/sexual misconduct matter in the limited circumstances afforded by this Policy and related procedures (e.g., the SMAPS); 6) protested practice(s) that allegedly violated this Policy or applicable local, state, or federal law(s); or 7) opposes, in a reasonable manner, an act or policy believed to constitute discrimination prohibited by this Policy. Adverse action under this policy could include intimidation, threats, coercion, discrimination or any action that would otherwise dissuade an individual from bringing forward a complaint of discrimination. Even if there is no finding of responsibility for an underlying discrimination allegation, an individual who engaged in retaliatory conduct may be found in violation of the Policy. Retaliation includes peer retaliation, retaliation by a student against an employee or by an employee against a student. Retaliation can also include action by an employee against another employee in a more senior role. An individual need not be a complainant or respondent to have committed or been affected by retaliation. See *Examples of Retaliation Prohibited in the Policy*.

VI. Evidence Standard and Sanctions

Tufts applies the preponderance of the evidence standard in the STOP-D to determine whether the reported discrimination, harassment, sexual misconduct and/or related retaliation has occurred. The preponderance of the evidence standard applies to any factual issues which will need to be decided. Investigators will use this standard of proof to determine whether there has been a Policy violation. In short, the decision of the STOP-D will be made based on whether the facts found support a finding that is “more likely than not” that the Non-Discrimination Policy was violated. The Investigator will issue a finding or Outcome Letter and refer the Investigative Report and Outcome Letter to the appropriate disciplinary decision-maker for sanction/disciplinary action, if needed.

Violations of this Policy are subject to disciplinary action. Depending on the nature of the violation, disciplinary consequences for violations of this Policy for students may include denial of privileges, disciplinary probation, suspension, diploma holds and expulsion. If the respondent is a student found responsible for violating the Policy, the Outcome Letter may become part of their student record and transcript, if necessary. For example, a student’s transcript might say, “Suspended September 2020-May 2021.” Disciplinary consequences for employees who violate this Policy may include warnings (verbal or written), demotions, suspensions and termination. The Outcome Letter may become part of an employee’s personnel record.

VII. No Retaliation

Tufts prohibits retaliation against any individual who submits a good faith report² or Complaint of discrimination, harassment and/or sexual misconduct or who in any way assists, participates in or refuses to participate in and/or cooperate in a STOP-D, including in some informal resolution process options (such as [No Contact Orders](#)) or in the investigation and adjudication of a STOP-D. For more information, please refer to the Policy. [LINK](#)

Tufts takes seriously all reports of retaliation and will promptly and equitably address retaliatory behavior by an individual or entity over whom the University has control, including students, faculty, staff or third parties as defined in the Policy. Any person found to have engaged in retaliatory conduct is subject to appropriate action by the University, including disciplinary action, if appropriate. Tufts may consolidate and apply STOP-D to Complaints of retaliation and discrimination, harassment and/or sexual misconduct involving relevant parties when the allegation arise out of the same facts or circumstances. Tufts will provide supportive/interim measures and /or other resources in response to related retaliation concerns, as appropriate, to stop prohibited conduct, prevent its recurrence, prevent and/or eliminate any hostile environment, and where appropriate, address any effects on community members or the Tufts community from such conduct.

Retaliation for participation in STOP-D should be reported promptly to the Executive Director of the OEO (who is also the Title IX Coordinator), [Jill Zellmer](#) at 617.627.3298 or Jill.Zellmer@Tufts.edu. The [Tufts University Police Department](#) (TUPD) may also be able to address retaliation by a person not affiliated with the University.

VIII. Definitions

For more information about definitions, please see the Non-Discrimination Policy [LINK](#) definition section and other relevant sections, which will control.

Complainant: A student, staff member, faculty member, job applicant or applicant for admission or third party (including visitors, patients, contractors, vendors and community members) who alleges they were subjected to discrimination or harassment, including sexual misconduct and/or related retaliation prohibited by the Policy is the *complainant*. A Complaint may also be brought by the OEO Executive Director/Title IX Coordinator or designee, called an Administrative Complaint). A person must have been enrolled, employed, or otherwise participating or attempting to participate in a Tufts employment, educational program or activity at the time the alleged prohibited conduct occurred in order to file a Complaint under the Policy, although the *complainant* need not be enrolled, employed, or otherwise participating or attempting to participate in a Tufts employment, educational program or activity at the time the Complaint is made. With respect to allegations of sex/gender-based discrimination other than sex/gender-based harassment **only**, a Complaint may be brought by any student or employee or any other person who was participating or attempting to participate in a Tufts employment, educational program or activity at the time the alleged prohibited conduct took place.

² Knowingly making false statements or submitting false information is prohibited and may incur sanctions.

Respondent: The student, staff member, faculty member, job applicant or applicant for admission or third party (including visitors, patients, contractors, vendors and community members) against whom a Complaint of discrimination or harassment, including sexual misconduct and/or related retaliation, prohibited by the Policy is filed through the STOP-D is the *respondent*. There may be more than one respondent in a case or the respondent may be a group or organization or entity. OEO reserves the right to address reported conduct engaged in by any person which limits or denies a person’s ability to participate in or benefit from Tufts employment, education program or activity, although only Complaints against individuals over whom the University has disciplinary authority will be pursued through the investigative process described herein.

Reporting Party: Is any individual who raises a concern or alleged Policy violation on behalf of themselves or another person. In some circumstances, a reporting party may also be a complainant. In other circumstances, the reporting party may be a “Responsible Employee” or third party. For more information, please see the Responsible Employees section in the Policy. [LINK](#)

Administrative Complaint: The OEO Executive Director/Title IX Coordinator, on behalf of Tufts, may independently initiate a Complaint against a student, staff member, faculty member, job applicant or applicant for admission, or a third party herein called an Administrative Complaint. This type of Complaint may be initiated in situations where a complainant is reluctant, unable or uninterested in initiating a Complaint directly. In those situations, the OEO Executive Director/Title IX Coordinator has the option to initiate an Administrative Complaint under the STOP-D according to a set of factors set forth in the Policy [LINK](#) (please see “University-Initiated, Administrative Complaints”). OEO reserves the right to process an Administrative Complaint informally using the [Explanation of Informal Process Options](#).

Consolidation of Complaints: As noted in the Policy, in cases in which allegations of prohibited conduct are connected to other alleged misconduct by the respondent which would ordinarily be addressed by another University policy, Tufts may, in its sole discretion, address all related conduct in a consolidated manner. Tufts may consolidate complaints of discrimination, harassment sexual misconduct and/or related retaliation prohibited by the Policy, against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of discrimination, harassment. sexual misconduct and/or related retaliation, arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references to a party, complainant, or respondent include the plural, as applicable.

IX. STOP-D Process

A. General Provisions

Tufts will treat complainants and respondents equitably.

The STOP-D process is flexible and may be adapted on a case-by-case basis to promote a thorough, impartial and effective process.³

Tufts requires that any decision-maker, including an Investigator(s), shall not have a conflict of interest or bias for or against any complainants or respondents generally or toward an individual complainant or respondent.

Tufts presumes the respondent is not responsible for the alleged discrimination, harassment sexual misconduct and/or related retaliation prohibited by the Policy until a determination is made at the conclusion of the STOP-D.

Tufts will take reasonable steps to protect the privacy of the parties and witnesses while the STOP-D process is pending and thereafter. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources or advisors; or otherwise preparing for or participating in the STOP-D procedures. The parties cannot engage in retaliation, including against witnesses. For more information about the University's privacy-related expectations, refer to the Policy and in particular, the [Privacy and Non-Retaliation Acknowledgement form](#).

The Investigator will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent or witness.

Relevant evidence is evidence which is related to the allegations of prohibited conduct at issue and whether or not the alleged prohibited conduct occurred. Questions are relevant if they may aid in showing whether the alleged prohibited conduct occurred, and evidence is relevant if it may aid a decision-maker in determining whether the alleged prohibited conduct occurred. The following types of evidence and questions are impermissible (i.e., will not be accessed, considered, disclosed, or used, except by the University to determine whether one of the exceptions listed below applies), regardless of whether they are otherwise relevant:

- Evidence protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality (i.e., chaplain, therapist, doctor);
- A party's or witness's records made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Tufts obtains that party's or witness's voluntary, written consent for use in the STOP-D process; and

³ These procedures are intended to be consistent with applicable state and federal requirements, including the Family Educational Rights and Privacy Act (FERPA), Title VI and Title IX, which cover all university education programs and activities, as well as Title VII of the Civil Rights Act of 1964 and the corresponding state employment law statute M.G.L. c. 151B and other civil rights laws, as defined in the Policy.

- Evidence relating to the complainant’s sexual interests or prior sexual conduct, unless offered to prove someone other than the respondent committed the alleged conduct, or if evidence about specific incidents of the complainant’s prior sexual conduct with the respondent is offered to prove consent to alleged sex/gender-based harassment or sexual misconduct. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant’s consent to the alleged sex/gender-based harassment or sexual misconduct or preclude a determination that sex/gender-based harassment or sexual misconduct occurred.

X. Assessment of Allegations Phase, Initial Steps and Considerations

After receiving a report of discrimination, harassment, sexual misconduct and/or related retaliation, the OEO will take several initial steps.⁴ These initial steps are not an investigation but are called the [Assessment of the Allegations](#). This assessment will enable OEO to determine if any immediate action is necessary to address the safety and health needs ([supportive/interim measures](#)) of the parties involved and to help the parties determine the appropriate next steps, whether under the Policy or with a referral to another policy.

These initial steps and consideration may include, but are not limited to, the following:

1. **Explanation of Informal Process Options:** OEO will contact the complainant or reporting party and encourage them to meet virtually or in person to discuss the nature and circumstances of the report, review relevant documentation that is available and describe the various options available to them ([Explanation of Informal Process Options](#)).
2. **Information about Resources and Supports and/or Supportive/Interim Measures:** Regardless of whether complainant or reporting party is permitted under the Policy to, or otherwise decides to, participate in the STOP-D, they may be entitled to supportive measures or [Resources and Support](#). Supportive measures are non-disciplinary, non-punitive individualized services, (such as, but limited to a **No Contact Order, NCO**) offered as appropriate, as reasonably available and without fee or charge, to either the complainant, reporting party or respondent before or after the filing of a Complaint or where no Complaint has been filed. [Supportive measures](#) are designed to restore or preserve equal access to the Tufts educational programs or activities, including employment (including by protecting the safety of the parties or the Tufts educational environment), and they will be designed so as not to unreasonably burden any party. For more information about supportive measures, please refer to the Policy section “Supportive/Interim Measures Available.”
3. If, at this time, the complainant (if known), declines to participate in the STOP-D process, Tufts will weigh this request against its own obligations.

⁴ Where the term OEO is used, the reference should be read, unless otherwise specified, as referring to the OEO Investigator as well as any designees. Where the OEO Executive Director/Title IX Coordinator is listed as the point of contact for any duty or role in the Policy or the STOP-D, she may designate another qualified member of the OEO to assume the role, as necessary and appropriate, herein called designee(s).

4. **Administrative Complaint:** As noted, the University reserves the right to move forward with a Complaint process unilaterally through an Administrative Complaint against a known respondent. The [Administrative Complaint](#) will be utilized according to a set of actors set forth in the Policy under the University-Initiated Administrative Complaint section. The reporting party can decide how much or how little they want to be involved in the investigation process if Tufts moves forward with an Administrative Complaint. OEO will never force a student party to participate if they do not wish to be a part of the process. Parties who are employees, however, have a duty to cooperate as explained in the Policy under section Duty to Cooperate. All parties are entitled to resources and supports regardless of their status or level of participation in the STOP-D process.⁵
5. **Retaliation is Prohibited:** All parties will be informed that retaliation is prohibited as described in the Policy which outlines the expectation that the parties will refrain from retaliation and consider the important principles of privacy and discretion as the investigation proceeds.

The respondent is presumed not responsible for the alleged prohibited conduct until or unless a policy finding is made at the conclusion of the STOP-D. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to the investigator.

As described further in the Policy, OEO will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through this process.

6. **Complainant's Statement:** The OEO prefers to confirm a complainant's statement in writing prior to beginning an investigation. If relevant information is not known, a Complaint may be dismissed (after reasonable attempts to clarify it) but will be logged as a complaint for future tracking of patterns and trends.
7. **Notice of Allegations/Charge Letter:** After the OEO assesses the allegations and determines it meets the elements of a STOP-D process, a [Notice of Allegations/Charge Letter](#) is shared with the parties whose identities are known. The notice should include the identities of the parties involved in the incident(s), the conduct alleged to constitute prohibited conduct, and the date(s) and location(s) of the alleged incident(s), if known. OEO will also provide parties with: (i) a copy of the Policy and relevant process, STOP-D; (ii) a statement that retaliation is prohibited; and (iii) a statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence. (ix) a statement that Tufts uses the preponderance of evidence standard of proof when considering the facts and evidence. OEO will send the parties an amended [Notice of Allegations/Charge Letter](#) if additional allegations arise which are to be consolidated with the ongoing investigation. For more information about this process, please see [flowchart](#).
8. **Emergency Removal Process:** If Tufts has reasonable concerns for the safety of any person before providing the Notice of Allegations/Charge Letter, it may reasonably delay in providing this letter to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes. In some cases where allegations may warrant emergency removal of a student respondent, OEO, in consultation with others including the TUPD and the corresponding Dean of Students (or their designee), as needed, may conduct an individualized safety and

⁵ Based on the facts and the choices of the reporting party, a reporting party could become a complainant, as defined in the Policy once they decide to file a Complaint.

risk analysis to determine if a student respondent poses an immediate and serious threat to the health and safety of a complainant or any students (including themselves), employees, or other persons arising from the allegations of prohibited conduct. If this analysis results in an affirmative, the student respondent is subject to emergency removal. If emergency removal is warranted, the student respondent will be removed from Tufts programs or activities, in whole or in part, pending the outcome of the STOP-D process. The removed student party will be informed in writing of this decision and its basis. The student respondent may seek an appeal of this decision to the Executive Director of OEO/Title IX Coordinator following their removal by submitting a written response to her.

Tufts reserves the right to place a respondent employee on administrative leave pending the outcome of the STOP-D process. Community member respondents may also be subject to separation or campus removal (i.e. contractors, patients) pending the outcome of the STOP-D. Employee administrative leaves may include complete removal from the workplace or limitations on access to the workplace and may be imposed with or without pay. In the event such a leave or separation is imposed, the respondent employee or third party will be given the opportunity to seek modification or reversal of this leave or separation through a request to the Executive Director of the OEO/Title IX Coordinator. Nothing in this process shall be construed to limit or modify such individuals' rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et. seq.*

Other interim measures may also apply such as an [NCO](#) or other [supportive/interim measures](#).

9. Option to Dismiss a Complaint: As noted in the Policy, the OEO may dismiss a Complaint of discrimination, harassment and/or related retaliation (*not for sexual misconduct and related retaliation*) if at any time it is determined that:

- OEO is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not, or is no longer, participating in Tufts' education program or activity and/or is not, or is no longer, employed by Tufts (i.e., Tufts does not have disciplinary authority over the respondent);
- The complainant voluntarily withdraws any or all the allegations in the Complaint; the OEO declines to initiate an Administrative Complaint and OEO subsequently determines that, without the complainant's withdrawn allegations, the remaining alleged conduct in the Complaint, if any, would not constitute harassment, discrimination, sexual misconduct or related retaliation if proven; or
- Tufts determines the conduct alleged in the Complaint, even if proven, would not constitute discrimination or harassment, sexual misconduct and/or related retaliation prohibited by the Policy. Prior to dismissing the Complaint, OEO will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, OEO will notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, OEO will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

The Complaint Dismissal will not limit any individual's ability to provide additional information and/or to raise and/or resolve the matter through another appropriate OEO policy and process. Further, the parties will continue to be able to engage in supportive measures, as appropriate. OEO may also take prompt and effective steps, as appropriate, to ensure discrimination, harassment, sexual misconduct and/or related retaliation does not continue to recur within the University's employment and/or education program or activity.

10. Appeal of a Dismissed Sex/Gender-Based Complaint: Dismissed Complaints may be appealed on the following basis:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- An OEO decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent specifically that would change the outcome.

If the Sex/Gender-Based complaint dismissal is appealed, OEO will:

- Notify the parties of any appeal, including notice of the allegations if not previously provided;
- Implement appeal procedures equally for the parties;
- Ensure the decision-maker of the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure the decision-maker for the appeal is appropriately trained in this process;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or to challenge, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

Tufts will continue to make [supportive measures](#) and/or any [informal options](#) available to the parties, if applicable, and take any other appropriate prompt and effective steps to ensure that prohibited conduct does not continue or recur within the Tufts employment and/or educational program or activity.

11. Investigator is Assigned: If OEO makes the determination to open an investigation, the Executive Director/Title IX Coordinator will assign an Investigator who will complete interviews with the complainant, respondent and/or any witnesses OEO deems relevant to the investigation. The Investigator will also gather any documentation or other evidence relevant to the Complaint. The burden is on OEO—not on the parties—to conduct an investigation which gathers sufficient evidence to determine whether harassment, discrimination, sexual misconduct and/or related retaliation occurred.

OEO will ensure the investigation of complaints is adequate, reliable and impartial, which means OEO will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. All Investigators will be qualified and trained individuals, employed by or engaged by OEO for the purpose of conducting investigations under the Policy. The Investigator will email introduce

themselves to the parties, separately, by email. OEO will provide both parties with an equal opportunity to:

- Consider any offers of an informal resolution process made by OEO or one of the parties
- Offer fact witnesses and other inculpatory and exculpatory evidence which is relevant and not otherwise impermissible;
- Access the relevant and not otherwise impermissible evidence to the allegations of discrimination or harassment, sexual misconduct and/or related retaliation prohibited by the Policy; and
- Respond to the evidence without delay.

12. **Right to an Advisor:** Tufts allows the complainant and respondent to each bring one support person (also called an advisor) to every OEO meeting/interview. Parties should inform the investigator at least a day prior to an interview if they plan to bring a support person to a meeting with OEO. Unionized staff are permitted to attend investigative interviews with a union representative if they have a reasonable expectation of possible discipline or sanction resulting from the STOP-D decision for which they are a respondent. Support persons will not be allowed to engage with or interact with the investigator during these meetings but are allowed to confer with the party at breaks, if they wish. If a support person interrupts or is disruptive in these meetings they will be asked to leave the meeting. Witnesses are not allowed to bring a support person to their interview or meeting.

13. **Interaction with Law Enforcement:** In the event of a report to law enforcement for conduct which is potentially criminal in nature, such a report will not change OEO's obligation to potentially investigate the matter. Tufts may conduct its own investigation and adjudication of a Complaint arising under the Policy regardless of whether the alleged discrimination is also being pursued through the criminal justice system. Tufts will comply with law enforcement requests for cooperation. At times, that cooperation may require OEO to temporarily suspend its fact-finding investigation while law enforcement gathers evidence. OEO will promptly resume its fact-finding investigation once it is notified by law enforcement that doing so would not impede any law enforcement activities.

Tufts will typically not consider the outcome of such a criminal proceeding even if the facts are the same because the University does not use the same process or standard of proof as a criminal process. Tufts may inquire about criminal processes if they impact an individual's ability to access or utilize the STOP-D. In no instance will the commencement of a concurrent criminal proceeding, by itself, lead to an adverse inference against the respondent.

14. **Reasonable Accommodation Requests:** Parties may request an accommodation at any point in this process by contacting the OEO Executive Director and Title IX Coordinator Jill Zellmer at 617-627-3298 or at Jill.Zellmer@tufts.edu or Katherine Vosker, Accommodations Manager, Katherine.Vosker@Tufts.edu or at [Accommodation Requests](#).

XI. Investigative Phase

If OEO determines an investigation will begin, the [Notice of Allegations/Charge Letter LINK](#) has been sent to all parties, an Investigator has been assigned and OEO has conducted the necessary assessment to determine if an emergency removal or other interim measures are needed, the Investigator will begin the process of gathering facts, interviewing relevant parties and conducting investigative analysis based on a preponderance of evidence as to whether a policy violation against the Non-Discrimination Policy occurred or not. For an infographic of this process, please see the [flowchart](#).

OEO will provide a prompt, adequate, reliable, fair and impartial investigation. The Investigator will provide the parties with advance notice of meetings at which their presence is required. Parties are free to take notes during the interviews but are not permitted to otherwise record the interviews or any part of these proceedings.

1. **Privacy and Non-Retaliation Acknowledgement Form:** All parties, witnesses and supports/advisors must sign the Privacy and Non-Retaliation Acknowledgement Form before they are interviewed. An advisor has the same expectations applicable to others in this process in relation to privacy and non-retaliation. Unreasonable requests for the rescheduling of interviews will not be granted for any advisors, in general. Advisors are not permitted to attend a meeting or proceeding without the party they advise being present.
2. **Interviews:** The parties will have equal opportunity to provide the Investigator with any documentation or other items they would like to be considered (and not otherwise impermissible). Each party will be interviewed and will have the opportunity to submit names of witnesses. The Investigator will review all evidence gathered through the interviews and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Furthermore, the Investigator reserves the right to interview any member of the Tufts community who may have specific information about the incident reported, even if they were not identified as a witness by a party.
3. **Draft Investigative Report:** At this time, the Investigator will write a draft investigative report which will summarize all relevant and not otherwise impermissible evidence. Included in the draft investigative report will be a draft decision based on the evidence gathered and received up to this point. The draft investigative report and decision will be based on the objective evaluation of all relevant evidence, both inculpatory and exculpatory and use the preponderance of the evidence standard of proof to determine whether the allegations of discrimination, harassment, sexual misconduct and/or related retaliation prohibited by the Policy occurred. The draft investigative report will be shared with the parties using ONEHUB, a secure, web-based portal. Draft reports may be partially redacted by OEO for reasons of confidentiality and privacy. Parties may request access for their support person/advisors and OEO will determine, in its discretion, whether to grant support persons/advisors' access.
4. **Parties Submit Their Appellate Response to the Draft Investigative Report:** Before the draft investigative report is finalized, the parties will be provided access to the draft investigative report on ONEHUB. At this stage of the investigation, the parties will be given the opportunity to submit an appellate response to the draft investigative report and can email it to the Investigator. This response may include other information they deem relevant to the investigation and is the last due process step in the STOP-D. The response time of the appellate

responses to the draft investigation report should be the same for both parties and take no more than ten (10) University business days. The Investigator will email the parties to be sure the parties know when their appellate responses are due to the Investigator. Once this timeline has passed (or before, if the parties submit their response to the Investigator sooner), the Investigator will review the response submissions and modify the draft investigative report, if necessary. The Investigator may choose to add the response submissions as an addendum to the draft investigative report, if applicable, or will otherwise finalize the investigative report after thoroughly considering the response submissions.

5. **Final Investigative Report:** The investigator will then submit the Final Investigative Report to the parties via ONEHUB and will also send a Notice of Outcome Letter to the parties summarizing the findings in the final investigative report, including if there was a policy violation found. In the final investigative report, the Investigator will show their objective evaluation of all relevant evidence, both inculpatory and exculpatory, including a thorough review of the appellate submissions and use the preponderance of the evidence standard of proof to determine whether the allegations of discrimination, harassment, sexual misconduct and/or related retaliation prohibited by the Policy occurred.
6. **Notice of Outcome Letter:** OEO will provide a Notice of Outcome Letter to both parties using the secure ONEHUB portal. The Notice of Outcome will include the finding of whether discrimination or harassment, including sexual misconduct, and/or related retaliation prohibited by the Policy occurred, and the rationale for such determination.
7. **Resolution of Complaint and Referral of Policy Violation, if any, for Sanctions:** If the Investigator determines discrimination, harassment, sexual misconduct and/or related retaliation prohibited by the Policy occurred, OEO will coordinate the provision and implementation of remedies to the complainant and other persons OEO identifies as having had equal access to the Tufts employment and/or education program or activity limited or denied due to the prohibited conduct. While OEO makes findings of policy violations, OEO does not typically make decisions about disciplinary sanctions in STOP-D matters. Consistent with applicable law, in certain cases involving sex-based harassment, sexual misconduct and related retaliation, decision-makers, below, will notify parties of any disciplinary sanctions to be imposed, as appropriate.
 - a. When the STOP-D respondent is a student, OEO refers the final investigative report and Notice of Outcome Letter with policy violations (if any) to the relevant conduct office in the student's School. The School's decision-maker determines any disciplinary sanction(s) to be imposed, consistent with the final OEO decision and does not have authority to change the policy decision OEO determined.
 - b. When the STOP-D respondent is an employee, OEO refers the final investigative report and Notice of Outcome Letter with policy violations (if any) to the relevant decision-makers who will determine any disciplinary sanction(s) to be imposed consistent with the final OEO decision. The decision-maker does not have authority to change the policy decision OEO determined. Relevant decision-makers may include, by way of example only, the Human Resources Business Partner (HRBP), a respondent's supervisor, department chair, Dean, Provost or other member of leadership or a relevant Dean of Students or designee.

c. OEO will take other appropriate prompt and effective steps to ensure discrimination harassment, sexual misconduct and/or related retaliation prohibited by the Policy does not continue or recur within the Tufts employment and/or education program or activity.

XII. Informal Process Options

It is within OEO's discretion to determine if, at any time, it is appropriate to offer informal resolution process options, including [NCOs](#) to attempt to resolve an allegation of discrimination, harassment, sexual misconduct and/or related retaliation prohibited by the Policy. Alternative dispute resolution such as mediation, coaching conversations or facilitated discussions are available as an option and alternative to the formal process in appropriate cases. Complainants may be able to choose anonymity within an informal process, depending on the circumstances. OEO staff will work with the complainant as to what to include in any discussion or conversation with the respondent to be sure the respondent understands Tufts' policies and to make assurances that the alleged conduct is stopped. The informal process is, by nature, not a punitive one but rather an educative one. This option is not appropriate for certain cases, including, but not limited to, when OEO determines the alleged conduct would present a future risk of harm to others, when there is a power differential between the parties, when sexual assault, stalking or interpersonal/dating/relationship violence and/or domestic violence is alleged or if permitting an informal resolution process would conflict with federal, state, or local law. See [Informal Resolution Process Options](#) for more information.

Whether an informal process is available will be determined exclusively by OEO, though the parties may provide input for consideration. If appropriate, OEO will inform both parties in writing of: (i) the offer of informal resolution; (ii) the allegations at issue; (iii) their rights and responsibilities in the informal process; (iv) that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the adjudication process; (v) that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming investigation procedures arising from the same allegations; (vi) the potential terms requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and (vi) the information OEO will maintain and whether and how Tufts could disclose such information for use in the investigation process if it is initiated or resumed.

Since participation in an informal resolution process is voluntary and both parties must agree to it, Tufts does not require parties to waive the right to an investigation and adjudication as a condition of (continuing) enrollment or (continuing) employment or the exercise of any other right. While every informal resolution process will be tailored to the facts and circumstances of the individual case, facilitators of the informal resolution process may not be the same as the investigator or decision-maker for the same matter, unless both parties agree. For more information about the [Informal Resolution Process Options](#).

XIII. Privacy and Confidentiality

Cooperation and truthfulness from all participants are expected in all OEO processes. Tufts recognizes the importance of privacy and confidentiality in these matters and the OEO will take reasonable efforts to protect the privacy of the parties and witnesses during these processes, provided the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the STOP-D.

Some individuals filing complaints or others involved in an investigation may want their identity to remain confidential. In some informal processes, the respondent may be able to be spoken to without the complainant being identified. In many cases there is no need for the parties to know who reported the matter. In all cases, issues of confidentiality must be balanced against Tufts' need to investigate and take appropriate action. While discretion remains important, parties are not restricted from discussing and sharing information relating to their complaints with others who may support them or assist them in presenting their case. However, parties also need to balance their communications of these matters with retaliation concerns and the integrity of the investigation.

XIV. Exceptional Circumstances

In exceptional circumstances Tufts reserves the right to determine, in its sole discretion, if it will address a report of discrimination, harassment, sexual misconduct and/or related retaliation prohibited by the Policy outside of the process described in the STOP-D with regard to investigative approach, sanctions issued or any other aspect of the process that may interfere with Tufts reaching a fair and appropriate result. If Tufts determines the exercise of its options under this provision is warranted, its actions will nonetheless be in accord with federal and state law as well as their regulations and will remain consistent with the spirit of the STOP-D to the extent possible. Factors applicable to these exceptional situations include those where the safety of Tufts community is at risk, the material facts of the matter are undisputed, there are extenuating circumstances involving either of the parties or if OEO or the Executive Director/Title IX Coordinator, when applicable, in consultation with appropriate administrators, determines it is in the best interest of Tufts and/or the Tufts community. If Tufts exercises this option, OEO will explain to the parties any alternate processes it will take in the given situation and the reasons th