

Complaint Procedure for Allegations of Discrimination¹

Statement of Principles

SUNY Korea is dedicated to providing a safe and welcoming educational environment for our community free from all forms of gender discrimination, including sexual violence.

SUNY Korea (including SUNY Korea-SBU and SUNY Korea-FIT), referred to as “SUNY Korea” or the “University,” has a longstanding commitment to equal employment and educational opportunity, and environments that foster respect, dignity, fairness, and equity. SUNY Korea is committed to creating and maintaining workplace, educational, and recreational environments that are safe and accessible, and free of all forms of discrimination. In continuing SUNY Korea’s effort to seek equity in education and employment, the University has adopted a complaint procedure for the prompt and effective investigation of allegations of discrimination on the basis of race, color, creed, national or ethnic origin, religion, age, sex, sexual orientation, gender identity, disability, military status, genetic information, criminal conviction, domestic violence victim status, and/or marital status. Harassment on the basis of any of the above-protected categories is discriminatory harassment and is a form of discrimination. SUNY Korea shall make reasonable efforts to investigate and address instances of discrimination of which it becomes aware, even in the absence of a complaint or complainant cooperation.

Applicability of Procedure

This procedure applies to all complaints alleging discrimination, which include sexual harassment, sexual assault and sexual violence, against employees, students or third parties.² This procedure is intended to balance the rights of those bringing complaints of discrimination (the “Complainant”) with those against whom such claims are brought (the “Respondent”). Throughout these procedures, the “parties” shall refer to the Complainant and the Respondent involved in the complaint.

This procedure may be utilized if the Complainant or Respondent is a SUNY Korea student, employee or third party, if the alleged incident(s) took place at a University facility, program, or activity. Employee grievance procedures established through SUNY Korea Grievances Resolution Committee, and any other procedures defined by rules and policies will continue to operate as before.

External Agencies

This procedure does not deprive a Complainant of the right to file a complaint with outside enforcement agencies. A Complainant may file a charge of discrimination with the appropriate enforcement agencies at any point in the process, subject to applicable time limitations. It is important to note that filing an internal complaint pursuant to this procedure does not extend the time limits established by enforcement agencies.

Upon filing with an external agency, the SUNY Korea internal complaint may be referred to the Office of Institutional Diversity and Equity (OIDE) for review, defense or, if deemed appropriate, mediation, conciliation, or settlement with the external agency, or such other actions as may be in the interests of the University, including the termination of the internal process.

¹ This document is provided for informational purposes only. It is not intended to be interpreted or relied upon as legal advice. Anyone seeking or requiring legal advice should consult an attorney.

² A third party refers to anyone outside the University community, including but not limited to, guests, visitors, vendors, and volunteers.

Jurisdiction of the Committee on Institutional Diversity and Equity is not Exclusive

The University will investigate alleged acts of discrimination of which it becomes aware. Based on information received by the OIDE, the OIDE designee may exercise his/her own discretion and initiate an investigation in the absence of a complaint. Depending on the circumstances, allegations of discrimination may also be referred to and/or investigated by OIDE and other University offices, including Human Resources & Operations Team (“HRT”) and Student Services Team (“SST”).

If at any time during the course of investigating a complaint the OIDE designee determines that a complaint is not within the jurisdiction of the Office, the complaint and the Complainant shall be referred to the appropriate office and the matter shall be considered concluded by OIDE. The OIDE designee may determine that a specific complaint is of such a serious nature that the matter must be referred immediately to the appropriate University office. The local police may also become involved if criminal conduct is implicated.

The Following Should Be Reported to OIDE for Investigation

Discrimination

All alleged violations of SUNY Korea policy, which prohibits discrimination on the basis of race, color, creed, national or ethnic origin, religion, age, sex, sexual orientation, gender identity, disability, military status, genetic information, criminal conviction, domestic violence victim status, and/or marital status, should be reported for investigation.

Discriminatory Harassment

Discriminatory harassment is a form of discrimination, which is prohibited and should be reported. Discriminatory harassment is improper conduct toward a particular individual, individuals, or groups on the basis of one or more of the categories indicated above, which is sufficiently severe or pervasive that it has the purpose and/or effect of:

- Creating an intimidating, hostile, or offensive work or educational environment for individuals and/or groups; or
- Unreasonably interfering with the work, academic performance, living environment, personal security, or participation in any University-sponsored activity of individuals and/or groups.

Sexual Harassment

Sexual harassment is a form of discrimination based on sex, which is prohibited and should be reported. Sexual harassment encompasses unwelcome, gender-based verbal or physical conduct, such as unwelcome sexual advances, unwelcome requests for sexual favors, requests for sexual favors in exchange for some benefit, and/or unwelcome verbal or physical conduct of a sexual nature. Sexual harassment occurs when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of any individual’s employment or education; or
- Submission to or rejection of such behavior by an individual is used as the basis for employment or educational decisions affecting the individual; or
- A behavior is sufficiently severe, persistent or pervasive to interfere with an individual’s work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment.

Examples of behaviors that may rise to the level of sexual harassment include, but are not limited to, the following:

- Physical assault;
- Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, work references, or letters of recommendations; and
- A pattern of behavior that is unwelcome, and severe or pervasive, resulting in unreasonable interference with the work, educational or recreational environment or the creation of a hostile, intimidating or offensive work, educational or recreational environment, may include, but is not limited to the following:

- Comments of a sexual nature;
- Sexually explicit statements, questions, jokes, or anecdotes;
- Unnecessary or undesirable touching, patting, hugging, kissing, or brushing against an individual's body;
- Remarks of a sexual nature about an individual's clothing, body, or speculations about sexual experiences;
- Persistent, unwanted attempts to change a professional relationship to an amorous relationship;
- Subtle propositions for sexual activity or direct propositions of a sexual nature;
- Uninvited letters, e-mail messages, text messages, telephone calls, or other correspondence referring to or depicting sexual activities; and/or
- Any of the above carried out via social media.

Sexual Assault/Violence

Sexual assault is defined as a physical sexual act or acts committed against a person without their consent or when a person is incapable of giving consent. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as "rape," whether forcible or non-forcible, "date rape" and "acquaintance rape."

Stalking

A course of conduct directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof, that would cause a reasonable person fear. It may include persistent patterns of leaving or sending the victim unwanted items or presents that may range from seemingly romantic to bizarre, repeatedly following the victim, damaging or threatening to damage the victim's property, defaming the victim's character, or repeatedly contacting a person via social media in a manner that causes fear or emotional harm

Title IX Complaints

All individuals reporting acts of sex discrimination, sexual harassment, or sexual violence will be informed by OIDE of their options and resources, consistent with Title IX – the U.S. federal statute that prohibits discrimination on the basis of sex. Complainants will be provided a list of available resources, including counseling, local rape crisis center information, medical services, police services, and government agencies for the filing of external complaints. Complainants will also be advised of their right to file a complaint with local law enforcement agencies.

SUNY Korea will comply with law enforcement requests for cooperation, which may require the OIDE and other University offices to temporarily suspend the fact-finding aspect of a Title IX-related investigation while the law enforcement agency is in the process of gathering evidence. SUNY Korea will promptly resume its investigation as soon as notified by the law enforcement agency that it is completed the evidence gathering process. As necessary, SUNY Korea will implement appropriate interim steps during the law enforcement agency's investigation to provide for the safety of the Complainant and the University community, and to avoid retaliation.

OIDE staff (also referred as the "Title IX Coordinator" and vice versa) may explain the availability of interim measures during its investigation, as appropriate. In the case of an investigation of possible sexual harassment, Complainants may be informed as to where to obtain counseling, psychological, medical and/or psychiatric services. Student Complainants may be informed about interim measures that can be taken if the Respondent lives on campus and/or attends classes with the Complainant. OIDE staff will explain that such measures should not disproportionately affect the Complainant and he/she should be referred to Student Affairs for assistance with making such arrangements.

Role of the Staff of the Office of Institutional Diversity and Equity

The OIDE is a neutral fact-finding office. Professional staff members are trained in investigating complaints and are available to assist with filing a complaint. Investigations will be conducted in a prompt and effective manner. Both parties will have the opportunity to offer evidence to be considered. OIDE does not represent either party, but does advocate on behalf of the University's principles of equal opportunity, nondiscrimination and equity.

The OIDE and its Title IX Deputy Coordinators report to the Title IX Coordinator and reports directly to the University President. The Title IX Coordinator may be contacted at:

Title IX Coordinator - Office of Institutional Diversity and Equity
 A519, Academic Building, SUNY Korea, Yeonsu-gu, Incheon, 21985
 Phone: 032-626-1153 | email: titleix@sunykorea.ac.kr

Title IX Deputy Coordinator for
 Students,
 A208, Academic Building,
 SUNY Korea
 Phone: 032-626-1191

Title IX Deputy Coordinator for
 Faculty,
 A201, Academic Building,
 SUNY Korea
 Phone: 032-626-1126

Title IX Deputy Coordinator for
 Employees,
 A418, Academic Building,
 SUNY Korea
 Phone: 032-626-1141

Conflict of Interest

The OIDE shall receive any information concerning any factors that could prejudice an objective evaluation of the evidence. In the event that a conflict of interest arises, the University will take necessary measures to ensure that the investigation is thorough and impartial. These measures may include reassignment of the investigation to other investigators with appropriate experience and training. If a staff member of OIDE or the Title IX Coordinator is the Respondent, the matter may be referred to the President or his/her designee. If the President is the Respondent, the OIDE will refer the complaint to the Vice President of Administration.

Confidentiality

The OIDE staff will conduct its investigation in a confidential manner to the extent practicable and/or permitted by law. Note, however, that the OIDE's fact-finding may also be utilized by other offices, including HRT. The parties and witnesses are expected to cooperate fully in the investigation, and maintain and preserve the confidentiality of the investigation.

Filing a Complaint

The OIDE staff may receive complaints from students, employees or third parties, and inquiries, reports, and requests for consultation and counseling. A complaint may be filed with one of the OIDE staff. OIDE staff should be consulted to discuss the viability of pursuing a complaint against a third party. This procedure assumes that a written complaint will be submitted. However, complaints may be filed orally.

Time frame

Ordinarily, complaints should be filed within ninety (90) days after the last act of alleged discrimination occurred. In instances involving a student complaint against a faculty member charging discrimination that occurred in the context of a subordinate-supervisor academic relationship (e.g., teaching, advising, thesis or dissertation supervision, coaching, clinical medical supervision), the time period may be extended until ninety (90) days after the student is no longer under the faculty member's academic or clinical medical supervision.

Supervisory Responsibility

Complaints or concerns that are reported to or act(s)/conduct that is observed by an administrator, manager or supervisor involving an alleged act of discrimination, should be promptly referred to one of the OIDE Staff for appropriate action. All other employees are also encouraged to make such reports to their supervisor, or the Title IX Coordinator.

Responsible Employees

All SUNY Korea Responsible Employees must report any observed, witnessed, or experienced discrimination on the basis of sex during any university activities/program/work. Responsible Employees include faculty, staff, and student leaders – Undergraduate Student Council members, club representatives, residential assistants.

Retaliation

Retaliation against an employee, student or any witness who participates in a OIDE investigation pursuant to this procedure is prohibited. Retaliation is also prohibited against any individual who files a sex discrimination complaint or participates in a complaint investigation in any way. Any substantiated act of retaliation may result in sanctions or other disciplinary action as covered by applicable University policies

Procedures for Investigating Complaints

Complaint Consultation & Review

The length of time for the consultation will vary depending on factors such as the complexity of the situation, office workload, or whether the situation involves actual or imminent loss of employment or academic standing, potential physical harm, or an ongoing relationship between the parties. In a telephone conversation or in-person appointment, an OIDE staff member will:

- Receive complaints of alleged discrimination;
- Discuss the facts of a situation and help the individual identify the problem(s);
- Assist the Complainant in the use of the Complaint Intake Form;
- Determine if the OIDE is the appropriate University office to address the allegation(s);
- Inform the individual of the ways in which the OIDE approaches its investigative processes;
- Advise an individual of alternate available University resources and external options; and
- Provide the Complainant with information about the various internal and external mechanisms with which the complaint may be filed.

Expectations

The University's review procedures are not designed to replicate an external judicial process. Consequently:

- Complainants and Respondents are expected to meet with OIDE staff as needed and requested;
- During any portion of the procedures, the parties shall be prohibited from using audio or videotaping devices;
- Advocates and representatives of a Complainant or a Respondent may not participate at any meeting convened by OIDE;
- Respondents and Complainants are expected to communicate with OIDE directly, not through legal counsel, other intermediaries, or persons accompanying the parties;
- The OIDE may provide the parties with periodic updates, as deemed appropriate and/or necessary;

- As appropriate, the OIDE will provide the parties with written notice of whether the complaint has been substantiated.

Intake Interview

The OIDE staff will ask a Complainant to participate in an initial intake interview, in which the Complainant will be:

- Asked to complete a Complaint Intake Form when it deems necessary (the Complainant may be asked to have this completed prior to the intake interview);
- Interviewed so that the allegations may be clearly stated;
- Asked to provide information about witnesses and other possibly aggrieved persons;
- Advised of OIDE's investigative procedures;
- Referred to another University office if the complaint does not fall within OIDE's jurisdiction;
- Advised of the University's policy against retaliation;
- Advised of the extent to which OIDE can maintain confidentiality in the investigative process; and
- Advised of the option to file a complaint with external investigative agencies at any time.

After the Intake Interview

The OIDE staff will determine whether a complaint merits further review. If it is determined that an investigation is necessary, the OIDE will commence the investigation in a prompt and effective manner, pursuant to the jurisdiction requirements outlined above. An investigation is started once the OIDE staff has determined that a complaint merits further investigation, or if the allegation involves sexual harassment, sexual assault or any form of sexual violence. During this investigation, the OIDE staff will:

- Reasonably inform the Respondent of the Complainant's allegation(s);
- Review all University records that concern the complaint;
- Interview witnesses;
- Review statements provided by the Complainant and the Respondent;
- Review other relevant evidence; and
- Take all reasonable steps necessary to complete the investigation within 90 calendar days after receipt of the complaint. OIDE may extend this deadline for a reasonable period of time, as needed. OIDE will inform the parties if an extension is needed.

Evidence Standard

The evidentiary standard applied in all OIDE investigations is the "preponderance of the evidence." In other words, the question that must be posed and answered is whether it is "more likely than not" that any alleged event(s) occurred. If the answer is yes, the complaint has been substantiated. In reaching its findings, the OIDE staff shall evaluate all facts and evidence, and consider the severity and frequency of the alleged act(s).

Respondent's Refusal to Cooperate

If the Respondent is an employee who refuses to cooperate and/or respond in a timely manner, OIDE may forego completion of an investigation and refer the matter to HRT, as appropriate, or the committee may take any other action it deems necessary and appropriate to address the situation. If the Respondent is a student who refuses to cooperate and/or respond in a timely manner, OIDE may forego completion of an investigation and refer the matter to the Department of Student Affairs and/or any relevant offices or teams, as appropriate.

Complainant's Inaction or Decision Not to Cooperate

During an investigation, if a Complainant declines to cooperate with OIDE or if the office determines that the Complainant no longer wishes to pursue a complaint, OIDE may consider the matter closed and may take no further action, with appropriate notification to the parties. OIDE also reserves the right to continue its investigation, regardless of Complainant cooperation or involvement.

Complaint's Withdrawal of Complaint

If a Complainant withdraws a complaint, such a decision should be communicated in writing to the OIDE staff. The University may, nevertheless, choose to investigate the allegation(s).

At the Conclusion of the Investigation

The OIDE staff issues a written statement indicating whether the complaint was substantiated. If the complaint was substantiated:

- (i) For Students – the OIDE may refer the matter to the Student Affairs for appropriate action (if any) under the applicable Student Conduct Code.
- (ii) For Employees –in consultation with HRT, appropriate administrative action may be taken. The OIDE may refer the matter to HRT for investigation.

Upon concluding its investigation, OIDE will assure that steps will be taken to prevent discrimination and harassment, to prevent the reoccurrence of discrimination and harassment, and to remedy the discriminatory effects on the Complainant(s) and others, if appropriate.

Appeal

There is no right of appeal from the findings of an investigation conducted by OIDE.

**To file a complaint pursuant to this procedure, request assistance
or for additional information, please contact:**

**Office of Institutional Diversity and Equity
Title IX Coordinator**

Email: titleix@sunykorea.ac.kr

Webpage: <https://www.sunykorea.ac.kr/en/html/sub01/0113.html>

Phone: 032-626-1153

A519, Academic Building
Email to schedule an appointment.

***Appendix A Complaint
Intake Form***

Case # _____

**SUNY Korea Office of Institutional Diversity and Equity
Complaint Intake & Information Sheet**

If you are the victim/survivor of sexual violence, you are not alone.

Name: _____ Date: _____

Address: _____

Email: _____ Cell #: _____

SUNY Korea Faculty SUNY Korea Staff Student (Undergraduate) Student (Graduate)

Student ID # (if you are a student) _____ May we contact you at work? Yes No

1. Please indicate your:

Date of Birth: _____ Sex: _____

Race/Ethnicity: _____ Marital Status: _____

Job title: _____ Religious Affiliation: _____

Department in which you work/study: _____

Supervisor's name and job title: _____

2. Name and title of the person that allegedly discriminated against you:

The person's status: Student Faculty Staff

3. What was done to you that you feel was unfair? (check all that apply):

- | | | |
|--|---|---|
| <input type="checkbox"/> Denied fair grade | <input type="checkbox"/> Denied access to program | <input type="checkbox"/> Denied accommodation |
| <input type="checkbox"/> Denied equal pay | <input type="checkbox"/> Denied equal treatment | <input type="checkbox"/> Failed to hire |
| <input type="checkbox"/> Denied training | <input type="checkbox"/> Denied promotion | <input type="checkbox"/> Laid you off |
| <input type="checkbox"/> Terminated you | <input type="checkbox"/> Forced your retirement/resignation | |
| <input type="checkbox"/> Subjected you to a hostile work environment | | |
| <input type="checkbox"/> Other | | |



4. Were you given a reason(s) for what was done to you? If so, what reason(s)?

5. What do you think is the real reason(s)? Discrimination* because of...

- Creed/religious belief Gender Age
- National origin/ancestry Race/color Sexual harassment
- Pregnancy Martial status Sexual orientation
- Opposed discrimination Physical/mental condition/disability

Other (explain): _____

6. Disability case - What is the nature of your disability? _____

7. Did you ask for an accommodation? Yes No If so, to whom? _____

What was the accommodation sought? _____

8. Original (first) date of discrimination: _____

9. Most recent date of discrimination: _____

10. Have you filed a complaint with any other agency, court, or department regarding this matter? Yes No

11. Describe everything that happened to you that you feel was discriminatory. Include each event, the date(s), names and titles of everyone involved. Attach additional pages if necessary

12. Did you complain? Yes No If so, to whom? _____

13. When did you complain?

14. Was anyone else treated the same way that you were? Please indicate the person(s)' name, job title, race/ethnicity, age and gender



15. Did anyone witness the treatment that you were subjected to? Please indicate the person(s) name, job title, telephone number and what the person(s) witnessed.

16. Are there any documents that can support your case? If so, what are they, and do you have them?

17. What have you lost at a result of what happened to you? (salary, benefits, opportunities, etc.)

18. What reasonable remedy are you looking for?

I affirm that I have read the above allegation(s) and that it is (they are) true to the best of my knowledge. The staff of the Office of Institutional Diversity and Equity and the Complainant shall agree to keep all information gathered relative to allegations of discrimination in confidence to the extent practicable or allowable by law. However, the OIDE staff and Title IX Coordinators may provide relevant information to the appropriate University staff when necessary.

I have been advised that it is a violation of current law to retaliate against an individual because they have filed a discrimination complaint. If I am subjected to any adverse action that I feel may be retaliatory, I will promptly report such to OIDE staff and Title IX Coordinator. In addition, I am advised that the filing of an internal complaint does not stop the statute of limitations for filing external complaints.

Date: _____ Complaint's Signature: _____

Revised 8/2022
For Office Use:

*Please note that this policy and the information contained in it does not constitute legal advice. If you require legal advice, consult an attorney

*Appendix B**Complaint Process at a Glance*