



POLICIES AND PROCEDURES

SUBJECT: NON-DISCRIMINATION POLICY AND PROCEDURE

DATE: 7/30/17 [ELECTRONIC APPROVAL BY BOT 7/31/2017]

SUPERSEDES ISSUE DATE: 7/11/17

Policy Title: Non-discrimination Policy and Procedure

Non-Discrimination Policy

“It is the firm policy of the Board of Managers and ICOM not to discriminate on the basis of race, ethnicity, color, sex, sexual orientation, gender, gender identity, religion, national origin, age or disabilities.”

Policy & Procedure Statement:

Idaho College of Osteopathic Medicine (ICOM) strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The environment of the company should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. Employees should be able to work and learn in a safe, yet stimulating atmosphere. The accomplishment of this goal is essential to the mission of the company. For that reason, ICOM will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and by education of employees, the company will seek to prevent, correct and discipline behavior that violates this policy.

All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension or termination of employment.

Prohibited Conduct Under This Policy

ICOM, in compliance with all applicable federal, state and local anti-discrimination and

harassment laws and regulations, enforces this policy in accordance with the following definitions and guidelines:

Discrimination

It is a violation of ICOM policy to discriminate in the selection of administrative personnel, faculty and staff, and students, the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, race, ethnicity, color, sex, sexual orientation, gender, gender identity, religion, national origin, age or disabilities.

Further, it is a violation of ICOM Policy to discriminate in the selection of administrative personnel, faculty and staff, and students if the basis of that discriminatory treatment is, in whole or in part, genetic information or marital status in its programs, activities, hiring, or the admission of students.

Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including but not limited to, Title VII of the Civil Rights Act 1964, Title IX of the Educational Amendments of 1972, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990 as Amended, 2008. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

Discrimination Complaint Resolution Process

ICOM is committed to resolving discrimination complaints in a timely and effective manner and providing prompt corrective action if discrimination is believed to have occurred. The discrimination complaint resolution process is intended to provide effective resolution for complaints of discrimination for any reason. Affected persons, including students, faculty, staff, community members, or others involved in ICOM events or programs, may utilize the process to address complaints of discrimination related to ICOM hiring and selection procedures, employment practices, conditions of employment, personnel actions, or ICOM educational programs and activities.

Who may utilize the ICOM Discrimination Complaint Procedures?

Any person claiming to be aggrieved by a prohibited discriminatory practice at the ICOM may contact the Title IX Coordinator, Dale Cassidy, MBA, CPA. Individuals who may use this procedure include, but are not limited to: individuals applying for enrollment or employment with the ICOM; students; faculty, including those with visiting appointments; teaching or research assistants; postdoctoral research associates and fellows; ICOM support staff and other unclassified employees; ICOM administrators; and other persons receiving ICOM services or

participating in ICOM programs. A person in the ICOM community may ask that the Title IX Coordinator initiate an investigation of a specific matter. The Title IX Coordinator may also initiate an investigation when he/she has reason to believe that discriminatory or retaliatory action is occurring.

Complaint Resolution Actions and Procedures

The process for resolving discrimination complaints may include some or all of the following actions: informal inquiry and discussion, mediation (except in cases of sexual harassment), disciplinary action, or other appropriate action. If the subject matter or issue of the complaint does not fall within the jurisdiction of this policy, the Title IX Coordinator staff will advise the complainant of other available procedures.

In many cases, individuals will take appropriate corrective action when they are made aware of how their actions or behaviors are being perceived. If the complainant is comfortable doing so, the complainant may bring the concerns to the attention of the person responsible for the behavior or action. Complainants who choose not to address the discrimination directly on their own or through other informal processes may seek the assistance of the Title IX Coordinator. Complainants are encouraged to file their complaints within one hundred eighty (180) days of the most recent occurrence of the alleged discrimination.

Who must report discriminatory actions?

Everyone who serves in leadership roles in ICOM are responsible for nondiscrimination in their employment and academic environments. With the exceptions specified below, all employees at the ICOM are required to contact the Title IX Coordinator to report incidents of discrimination and sexual harassment, including sexual violence, of which they know or have reason to believe may have occurred. For example, if a student shares information about discrimination or sexual harassment, including sexual violence, with a faculty or staff member, the faculty or staff member must report the information to Title IX Coordinator. The Title IX Coordinator may also initiate an investigation when appropriate and in the interests of the ICOM to do so.

Exemptions from the reporting obligation outlined above are as follows:

1. Health care providers and pastoral and professional counselors who receive information about discrimination or sexual harassment, including sexual violence, while acting in their role as a health care provider or pastoral or professional counselor are not required to report such information to Title IX Coordinator; and

Employees who are exempt from reporting to Title IX Coordinator still have an obligation to exercise reasonable care to protect a foreseeable victim from danger and to make reports mandated by law. In addition, exempt employees shall encourage individuals to report discrimination or sexual harassment, including sexual violence, to contact Title IX Coordinator and the police.

Complaint

Any individual who believes that they have been the subject of discrimination or retaliation, or a Dean, Director, Chairperson or other supervisor or administrator who has reason to believe

that discrimination or retaliation may have occurred, should contact the Title IX Coordinator to initiate the filing of a complaint. A complaint should include the following, to the extent known and available:

- Name and contact information (address, telephone, e-mail) for the complainant;
- Name of person(s) directly responsible for the alleged discrimination or retaliation;
- Date(s), time(s), and place(s) of the alleged violation(s);
- Nature of the alleged violation(s); i.e. race, sex, disability discrimination or retaliation, etc.;
- Detailed description of the specific conduct that is the basis of the alleged violation(s);
- Copies of any documents or other tangible items pertaining to the alleged violation(s);
- Names and contact information for any witnesses to the alleged violation(s);
- Any other relevant information.

Upon receiving a complaint, the Title IX Coordinator will provide the complainant with an acknowledgement of receipt within seven (7) working days.

Complaint Evaluation

Upon receiving a complaint, the Title IX Coordinator shall conduct an initial evaluation of the merits of the complaint and determine the appropriate investigatory action required. The Title IX Coordinator staff will contact the dean, director, administrator, supervisor, or chairperson responsible for the unit to inform them of the filing of the complaint. When necessary, appropriate administrator(s) or faculty member(s) may be designated by the President, Dean, Director, or Chairperson, by the Director of the Department of Human Resources, or by the Title IX Coordinator to participate in the evaluation of the complaint and to facilitate necessary action.

Investigation

A formal investigation will be initiated if a complaint is complete, timely, within the scope of this policy and articulates sufficient facts, which if determined to be accurate, would support a finding that the ICOM's discrimination policies have been violated. Investigators assigned to conduct an investigation will be impartial. In conducting investigations into violations of the ICOM's Policies, the Title IX Coordinator will use a preponderance of the evidence standard in making factual determinations. A preponderance of the evidence standard means the fact in issue is more probably true than not.

Investigation Timeframe

ICOM will strive to complete discrimination complaint investigations, including issuance of a report of findings to the complainant and respondent, in as timely and efficient a manner as possible within sixty (60) days of receipt of a complaint. However, this timeframe may be extended based on factors such as, but not limited to, schedule and availability of witnesses, holidays or semester breaks including summer break, and complexity of the complaint. If an investigation cannot be completed within sixty (60) days of receipt of the complaint, then the

investigator(s) will notify the complainant and respondent of that fact and provide a timeframe for completing the investigation.

Investigation Procedure

The investigation will include the following steps:

- **Notice to Respondent.** The respondent will be provided with a statement of the complaint in writing, and the complainant will be provided a copy of this notification. The respondent will be provided an opportunity to meet with the investigator(s) investigating the complaint and to respond to the allegation. Respondents may respond in person or in writing within a reasonable time to be determined by the investigators. If a respondent chooses not to participate or refuses to answer a complaint, the nonparticipation will not prevent the investigation from proceeding and could result in a finding based solely on the information provided by the complainant.
- **Notice regarding Retaliation.** All parties to a complaint (complainant, respondent, witnesses, and appropriate administrators or supervisors) will be informed that retaliation by an individual or an individual's associates against any person who files a complaint or any person who participates in the investigation of a complaint is prohibited. Individuals who engage in retaliation are subject to disciplinary action.
- **Contact with Complainant.** If the investigator did not speak with the complainant at the time that the complaint was received by the Title IX Coordinator, then the investigator will meet or speak with the complainant at the start of the investigation and throughout the investigation as appropriate.
- **Representation.** In any meeting with the investigators, the parties to the complaint (complainant and the respondent) may bring a representative to the meeting. If the representative is an attorney, the party must notify the Title IX Coordinator in writing at least three (3) working days before the meeting date.
- **Information relevant to Investigation.** The parties to a complaint (complainant and respondent) will be informed that they have the opportunity to identify witnesses, present witness statements, and any other evidence they believe relevant to resolution of the complaint. The investigator(s) will interview other persons whom, at the investigator(s)' discretion determines to be necessary to gather relevant information. The investigator will review any written materials, e-mails or other media that, at the investigator's discretion may provide relevant information regarding the complaint.
- **Findings of Investigation.** The investigator(s) will provide a written summary of the findings to the respondent and the complainant within a reasonable time following the conclusion of the investigation. In addition, the investigator(s) will provide a written report of the investigation findings and recommendations to the appropriate administrators within the ICOM who will determine the appropriate action to be taken in light of the investigation findings and recommendations. The administrators will have

twenty working days from receipt of the investigation findings and recommendations to determine, in consultation with the Title IX Coordinator, an appropriate resolution(s). Upon making their decision, the administrator(s) will provide written notification of their decision to both the respondent and complainant.

- **Appeals.**

- **Respondent, Finding of Discrimination or Retaliation with Imposition of Discipline.** If formal disciplinary action is imposed as a result of a finding of violation of the ICOM's policies prohibiting discrimination and retaliation, then a respondent may request a hearing as follows:

- **Faculty member or a staff member.** The affected employee may request a hearing before the ICOM Dean's Council, as determined by the sanction.

- **Student.** The student may request a hearing. If the student does not request a hearing, the matter will be referred to the PARC committee for recommendations to the Dean.

- **Staff Employee.** A staff member may request a hearing.

- **Complainant.** If the complainant believes that the Title IX Coordinator Investigator's investigations findings concluding that there was no discrimination or retaliation is in error, then the complainant may appeal that conclusion to the Dean within ten (10) working days of the date of the notice of the investigator's findings. The request for an appeal must be a signed, written document articulating why the investigator's conclusion finding no discrimination or retaliation is erroneous. The Dean will respond to the request for appeal within twenty (20) working days of receiving the appeal. The Dean decision on appeal will constitute final agency action and there will be no further appeal within the ICOM.

Administrative Closure of a Complaint without Investigation

The ICOM may not proceed with a complaint investigation under a variety of circumstances, for instance:

- A complainant, even after contact and follow up with an investigator, fails to describe in sufficient detail the conduct that is the basis of the complaint;
- The conduct alleged in the complaint is not covered by this policy;
- The complaint is untimely;
- The complainant refuses to cooperate with the ICOM's investigation;

- The complainant is anonymous.

If it is determined that the ICOM will not proceed with investigation of a complaint, the Title IX Coordinator will notify the complainant (if not anonymous) in writing explaining the reasons why the complaint is not being investigated. The notification letter will include a statement notifying the complainant that the complainant may appeal the determination not to proceed with an investigation of the complaint to the Dean with ten (10) working days of the notice. The request for an appeal must be a signed, written document articulating why the decision to administratively close the complaint without an investigation was in error. The Dean will respond to the request for appeal within twenty (20) working days of receipt of the appeal. If the decision to administratively close the complaint without an investigation is upheld, then that decision will constitute final agency action and there is no further appeal within the ICOM. If the decision to administratively close the complaint without an investigation is overturned, the complaint will be sent back to the Title IX Coordinator for investigation in accordance with this procedure.

Extensions of Time

The Title IX Coordinator will make every reasonable attempt to adhere to the time limits set forth in these procedures. However, it is recognized that circumstances may necessitate an extension of time. Therefore, the Title IX Coordinator may extend the time limits set forth in these procedures.

Retaliation

Retaliation against persons who file discrimination complaints or persons who participate in an investigation of a complaint, whether by an individual directly involved or by associates of the individual involved, is a violation of law and ICOM policy. Complainants who utilize these procedures or persons who participate in an investigation of a complaint should not be subjected to retaliation. Retaliation may take the form of unwanted personal contact from the respondent or giving additional assignments that are not assigned to others in similar situations, poor grades or unreasonable course assignments. Phone calls, e-mail or other attempts to discuss the complaint may be perceived as retaliation under certain circumstances. Disciplinary action, harassment, unsupported evaluations, or other adverse changes in the conditions of employment or the educational environment may also constitute retaliation. Retaliation will not be tolerated and could result in suspension, reassignment, salary reduction, termination, expulsion or other disciplinary action.

Confidentiality

The Title IX Coordinator will handle all discrimination and harassment complaints discreetly but cannot guarantee confidentiality or anonymity because the ICOM has an obligation to investigate complaints of discrimination and harassment and to maintain a safe environment, free from harassment and discrimination. Because of its obligations under the law, ICOM will not be able to honor all requests for confidentiality or all requests that a complaint not be pursued.

However, complainants, respondents, witnesses, and any other parties involved in a complaint of discrimination shall refrain from disclosing information about a complaint of discrimination to anyone who does not have a legitimate, business need or right to know. Such disclosures are inappropriate and unprofessional and may result in disciplinary action. The foregoing does not preclude either party from seeking the advice or counsel of a supervisor, counselor, attorney, or other person in a similar role.

State and Federal Reporting of Discrimination

Employees may file employment discrimination complaints with the State of Idaho. Students may file discrimination complaints through the Office of Civil Rights in the U. S. Department of Education. The Title IX Coordinator can provide information about deadlines and filing procedures for the state and federal agencies.

CONSEQUENCES:

Members of the ICOM community who are found to have violated the ICOM Nondiscrimination Policy are subject to disciplinary actions appropriate to their status as faculty, staff, or student employees or as students.

CONTACT:

The Title IX Coordinator provides information and educational programs regarding equal opportunity, sexual harassment, discrimination, disabilities, hiring, and affirmative action. The Title IX Coordinator monitors hiring procedures, resolves discrimination complaints, oversees the ICOM nondiscrimination policies and is responsible for administering the ICOM's Discrimination Complaint Resolution Process.

Approved by:

A handwritten signature in black ink, appearing to read "P.O. Brock", with the number "114577" written below it.

7/30/17

CAO/Dean

Date