

Navigating Large Scale Investigations: A Guide to Investigating Patterns of Discrimination and Harassment within Schools, Departments, and Offices on Your Campus

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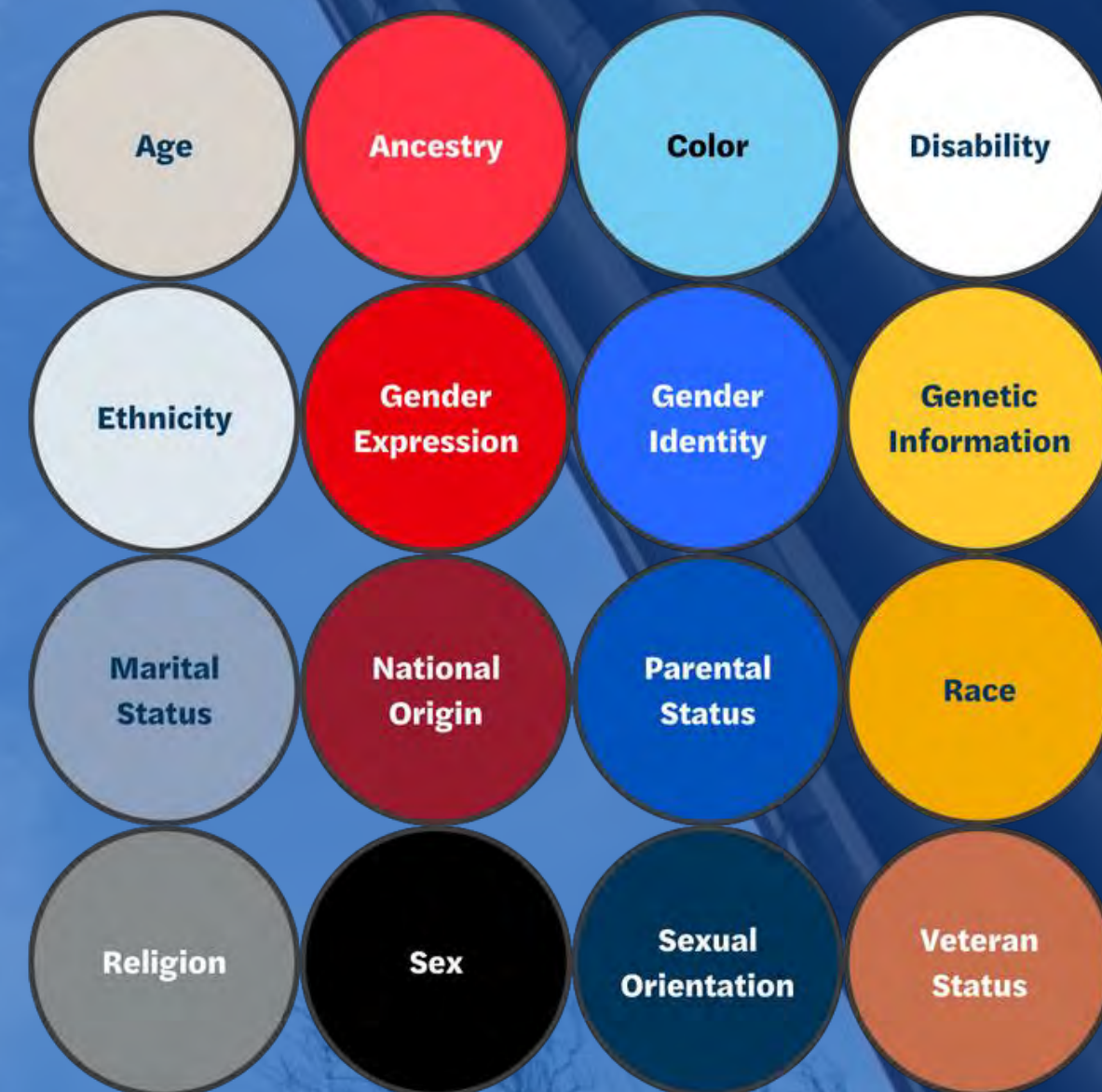
University of Kansas

Office of Civil Rights & Title IX

KU

Introductions

The Office of Civil Rights & Title IX (OCRTIX) responds to reports of harassment and discrimination; assesses and responds to the impact of harm; engages in supportive, educational, and harm prevention outreach; supports pregnant and parenting students; oversees Clery Act, Stop Campus Hazing Act, and Drug-Free Schools and Community Act compliance; and participates in other federal and state compliance related efforts.





Overview

- Why do Department-Wide Investigations?
- How to Get Started
- Pre-Investigation
- Investigation
- Preliminary Steps
- Interviewing & Evidence Gathering
- Follow Up
- Challenges
- Report Writing & Recommendations
- Case Completion
- Outcomes



Why are department-wide investigations important?

Legal:

- Title IX/VAWA: Obligation to stop, prevent, and remedy sex discrimination, sexual harassment, and sexual violence.
- Title VI: Obligation to prevent and eliminate hostile environments.
- Title VII: Obligation to prevent and address discrimination in all aspects of employment.

Culturally:

- Need, request, or desire to root out why a department is dysfunctional.
- Need, request, or desire to identify cause(s) of systemic issues.



What started our department-wide investigations?

- June 2022: Lauren joins the OCRTIX and spoke with campus leaders
- Internal data indicated a larger problem
- Climate issues emerged:
 - Culture of disrespect
 - Microaggressions
 - Handling issues internally rather than through processes and procedures established by the University
 - Fear of retaliation
 - Favoritism

Complainant	Respondent	Date of Filing	Type of Allegation	Current Status	Outcome	Date of Closure	Unit Involved	Notes
Bilbo Baggins, Student	Arwen, Faculty	9.22.3018	Sex Discrimination	Closed	Administrative closure	11.1.3018	Middle Earth	Baggins is a student in Arwen's elven magic 101 class. Baggins is the only male student in the class. Baggins stated that he received a failing grade on the group final project but his female groupmates received As. Baggins alleged that Arwen gave him an F because he is male.
Faramir, Student	Legolas, Student	9.26.3018	National Origin Discrimination	Open	Pending	N/A	Middle Earth	Faramir joined the Mirkwood Forest student organization. Faramir alleged that Legolas, the President of Mirkwood Forest, intimidated and harassed him repeatedly last semester during group meetings and events. Faramir stated that Legolas targeted him because he is from Gondor.
Peregrin Took, Faculty	Elrond, Faculty	12.25.3018	Age Discrimination	Closed	Investigation	2.13.3018	Rivendell	Took, a 29 year old faculty member, asked his supervisor, 6,520 year old Elrond, to allow him to attend the Council of Elrond work committee. Took alleged that Gandalf denied his request because he is too young to provide useful insight or be helpful.
Galadriel, Faculty	Sauron, Faculty	5.1.3019	Sex Discrimination	Open	Investigation	N/A	Middle Earth	Galadriel, a female faculty member, was denied a promotion to the department chair, which was given to Sauron, a male faculty member. Galadriel alleged that Dean Radagast, who made the decision, later told Sauron that he did not want a woman in such a serious role.
Rosie Cotton, Staff	Samwise Gamgee, Staff	3.25.3019	Stalking, Sexual Harassment	Closed	Informal Resolution	6.6.3019	The Shire	Cotton is a librarian in the Shire department. Cotton alleged that Gamgee, her co-worker, has repeatedly asked her to go on a date with her even though she declined. Cotton also alleged that Gamgee waits for her to finish her shift and tries to walk her home every night.
Gandalf the White, Staff	Gimli, Faculty	10.30.3019	Parental Status Discrimination	Open	Pending	N/A	Mines of Moria	Gandalf is an employee in the Mines of Moria office. Gandalf requested parental leave from his supervisor Gimli to take care of his twin sons Merry and Pippin, which Gimli denied because the timing was inconvenient.
Frodo Baggins, Student	Gollum, Student	9.29.3021	Domestic Violence	Closed	Administrative closure	10.12.3021	Mount Doom	Baggins and Gollum have been roommates in the Mount Doom dormitory for thirteen months. Baggins alleged that Gollum attacked him when he accidentally threw away Gollum's ring.
Treebeard, Staff	Saruman, Staff	3.3.3019	Disability Discrimination	Closed	Investigation	4.28.3019	Middle Earth	Treebeard has a documented medical condition that limits his mobility. Treebeard applied for an administrative position which he is qualified for with reasonable accommodations. Treebeard alleged that Saruman, his supervisor, denied him the promotion.

Pre-Investigation



Pre-Investigation

- Determine Scope of Investigation
 - Conduct
 - Policies
 - Protected classes
 - Relevancy
 - Timeframe
 - Population
- Consulted with ATIXA
- Selected Investigator
- Created a game plan
- Leadership buy-in

Pre-Investigation

- Campus Partners
 - Legal counsel
 - Human Resources
 - Faculty Affairs
- Tell the unit's leadership and key individuals
 - Be prepared for a variety of responses

Investigation



Investigation – Preliminary Steps

- Review data and past case files
 - Make a list of individuals to interview
- Research the department
 - Learn the hierarchy and reporting structure, names and roles, units, etc.
- Determine report format and how information will be used and shared
- Letter templates
 - Individual Interview Request
 - Large scale Interview Request
 - Records Request

Investigation – Preliminary Steps

- Make preliminary records requests
 - Personnel files, climate survey reports, employee handbooks, department policies, demographic information, etc.
- Create a system or process for new reports

Investigation – Interviews

- Interview in phases
 - Phase 1: Recent and repeat complainants who are still employed/enrolled
 - Phase 2: Recent and repeat respondents who are still employed/enrolled
 - Phase 3: Former employees and students, and individuals named by interviewees
 - Phase 4: Wider population

Investigation – Interviews

- Advisements
 - Purpose of the review
 - Your experience and perspective
 - How their interview will be used
 - Retaliation Policy
 - Mandatory Reporting Policy
 - Crime Reporting Policy
 - Support and resources

Investigation – Interviews

Common interview questions

- How has your experience in the department been so far?
- Do you identify with any of our protected classes?
- Do you feel safe, comfortable, and welcome?
- Are you aware of any other concerns or incidents within the department?
- How can the OCRTIX best support you and your department?
- What would you change, if anything, about your department?
- Is there anyone else you think I should talk to?

Investigation – Post Interviews

- Remaining records requests
- New reports
- Follow up support
- Referrals

Challenges

- Lack of leadership support
- Political climate
- Unit changes
- Participation
- Curiosity
- Length of investigation and managing expectations
- Forum Shopping
- Frustration with additional reporting requirements
- Length of interviews
- Lack of documentation
- Accountability and bias

Report Writing & Recommendations

Report Writing - Format

We write two reports – a full investigative report, and a summary report

- The full investigative report includes all evidence, participant names, specific incident details, general observations, and recommendations. This report only goes to the General Counsel.
- The summary report is anonymized, and its content is focused on larger patterns within the unit but includes the general observations and recommendations contained in the full investigative report. This report goes to members of leadership and stakeholders who will be involved in carrying out the recommendations, i.e., the Provost, the dean, Human Resources, etc.

Report Writing - Recommendations

- Review the information received during the interview and evidence gathering phase, pay attention to patterns or larger issues that emerge
- Brainstorm ways to address and remedy these issues
- Create a list of recommendations

Report Writing - Recommendations

Hypothetical #1:

During the tenure application process, Dr. Goldberry, Dr. Arwen, and Dr. Eowyn—all female professors in the Middle Earth department—were questioned about how they would manage the responsibilities of motherhood, including childcare, alongside the expectations of a tenured faculty role. To their knowledge, none of their male colleagues were asked similar questions regarding family or caregiving responsibilities.

Report Writing - Recommendations

Hypothetical #2:

Dr. Wormtongue oversaw an academic misconduct hearing for a student who has since graduated, Ms. Shelob. Ms. Shelob claimed she was accused of cheating because she was using notes as part of an approved disability accommodation, and alleged that her professor, Dr. Saruman, discriminated against her on the basis of disability. During his interview with the investigator, Dr. Wormtongue offered to provide a copy of Ms. Shelob's academic file, which he stated he had kept at his home for several years.

Report Writing - Recommendations

Hypothetical #3:

During interviews with faculty in the Middle Earth department, many expressed frustration and confusion about the University's Mandatory Reporting policy. The investigation also revealed that several incidents of discrimination and harassment, which should have been reported, had not been shared with your office. Instead, Dean Theodon addressed the matters internally.



Completion and Outcomes

- Discuss the summary report and recommendation logistics
- Recommendation follow up
- Stronger relationships with departments
- Improved internal processes



Q&A



Thank you!

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