

To: President Santa J. Ono
From: Senate Advisory Committee on University Affairs (SACUA)
RE: Office of Ethics, Integrity, and Compliance (OEIC)
Date: December 20, 2022

Dear President Ono,

SACUA applauds your recent announcement of a new Office of Ethics, Integrity, and Compliance. We understand that preliminary consideration has begun regarding how to structure this office. SACUA strongly recommends the following.

Independence

- The independence of the OEIC, especially from the University's executive officers and legal staff, is critical. On a day-to-day basis, the OEIC must make the fair and impartial administration of guidelines and ethics its priority, without political or financial influences. The OEIC should have the independence to determine which reports and violations to consider and which investigations to pursue.
- The OEIC should have one main reporting line to the President and a secondary one to the Chief Financial Officer (CFO) or the Office of the General Counsel (OGC), as well as a dotted reporting line to the Board of Regents. These reporting lines would exist solely for situations involving the conduct of the other office (e.g., President for CFO/OGC and CFO/OGC for President), and they would not be used for day-to-day operations.¹
- The relationship of the OEIC to those it reports to should be analogous to the relationship of the U.S. Department of Justice to the U.S. President, in that what the OEIC chooses to do within its mandate is independent of the executive officer(s) to whom it reports.
- The OEIC should develop its own code of conduct that all members of the OEIC abide by in order to support their independence and fairness.
- A long-term goal (e.g., 3-5 years out) should be for the OEIC to develop a more independent reporting structure for itself. One possibility would be to work with other universities to form and fund an independent consortium body supporting compliance offices like the OEIC, with that consortium body assisting with addressing this issue.

¹ SACUA was evenly divided on whether the second reporting line should be to the CFO or the OGC.

Responsibilities

- The OEIC should investigate and recommend remedies for issues involving any potential breach of ethics, integrity, or compliance at the University, including but not limited to matters involving discrimination, retaliation, and sexual misconduct.
- The OEIC should prioritize matters in three categories: (1) where there is no other recourse at the University for pursuing the matter; (2) when all other avenues for recourse at the University have been exhausted; or (3) when the matter involves those who have power over the normal channels of recourse at the University.
- The OEIC should automatically receive all findings from the University's formal conflict resolution proceedings, including ECRT investigations and University grievance proceedings. The OEIC may commence its own review of such findings and of the University's response to those findings. That review may include meeting with the relevant parties involved, considering whether violations of University policy occurred, and assessing whether recommendations responsive to the findings were made and implemented. In a Faculty Grievance case, the Grievant should be afforded a final appeal to the OEIC, if they so choose.
- The OEIC should publish an annual report providing an overview of the types and numbers of cases and complaints it has handled and also how each was or was not resolved. The report should be appropriately anonymized, but no more than necessary to preserve privacy and legality.

Authority

- The OEIC needs to have investigatory powers and resources, including having independent and qualified investigatory staff with access to all communications, documents, databases, and people relevant to its investigations.
- Actionable conclusions of the OEIC, such as its remedial recommendations with respect to its own investigations, should be binding on the University, within applicable law.
- In the event that a Faculty Grievance Hearing Board finds violations of University Policy, the OEIC should have the authority to work with a Grievant to determine recommendations and to ensure that those recommendations are implemented.

U-M Community Oversight

- Search committees for the head of the OEIC should include independent faculty members nominated by SACUA.
- The leadership of the OEIC should attend a SACUA meeting at least once per year.
- The OEIC should have a community oversight committee with representatives from the student body, staff, and faculty. Faculty representatives should be nominated by SACUA.

Other representatives should be selected by their corresponding elected bodies. The Director of the OEIC may consider having the representatives of the community oversight committee sign an NDA (Non-Disclosure Agreement) so that all relevant information about the OEIC's activities can be shared with them, including specific information about particular cases.

Approved by SACUA: December 19, 2022