

EXHIBIT 05

To: Kilburn, Lilia [redacted]
Cc: Povich, Ilissa Kimball [redacted]
From: Shaffer, Jessica L [O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=57EEE61217BE411BAEC741D3801FB5BD-JES7164]
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Hi Lilia,

Thank you for your email. Please note that the Procedures do not reference “bundl[ing]” cases. Rather, as outlined in the Procedures, “The Investigator will contact the [. . .] Reporter in an attempt to gather a more complete understanding of the allegations, as well as any related conduct that may implicate this Policy. When a complaint is brought by a Reporter, the Investigator will endeavor to meet with the person identified as the potential Complainant both to gather information and to discuss his or her interest in participating in an investigation.” As we discussed in our phone call on June 18, if a Complaint filed by a Reporter involves several potential complainants, the allegations involving each potential complainant would be investigated separately as individual cases. One person cannot serve as a personal advisor for numerous complainants in cases involving the same respondent, because that personal advisor would be privy to information about the respondent from multiple sources, which the respondent could reasonably challenge as unfair. ODR is obligated under the Policy to provide “equitable methods of investigation[.]” For additional information regarding personal advisors, please refer to the [Personal Advisor Role Frequently Asked Questions](#). ODR, as neutrals, cannot advise parties.

In this matter, ODR is following the *FAS Procedures for Complaints Against Faculty Members*, which you were previously notified of in my June 12 email. If the Policy and Procedures change for any reason, parties will be promptly notified.

ODR’s investigative process continues remotely during the response to the novel coronavirus. As a reminder, the Policy and Procedures grants rights to parties that do not extend to witnesses. Both parties have the right to review and respond to all information that ODR may rely on in the investigation, including the complaint, the response, any written information provided by a witness, or other documents submitted. As explained in Frequently Asked Questions, FAQ #25:

Will both parties have access to the materials that ODR uses in reaching its conclusions?

Yes. During the course of the investigation, both the complainant and the respondent will have the opportunity to respond to all information used by the Investigative Team in reaching its conclusions. They will also have the opportunity to provide the Investigative Team with any additional information that they have. This information, like other information received from the complainant and respondent during the investigatory process, will be shared with the other. In addition, each party will have the opportunity to review and comment on the draft investigative report, and the Investigative Team will evaluate the comments before issuing a final report.

For the past six years, ODR has routinely emailed the parties such documents with redactions removing any personally identifying information of students in accordance with the Family Educational Rights and Privacy Act (“FERPA”). Likewise, ODR shares other information gathered upon which ODR may rely, such as information gathered in interviews, with the parties orally. Please note, the Procedures provide, “The Investigator, personal advisors, and others at the University involved in or aware of the complaint will take reasonable steps to protect the privacy of all involved.” This expectation of confidentiality is designed to ensure the integrity of the investigation and to avoid conduct that might be construed as retaliatory. The Procedures also state, “Retaliation of any kind is in itself a separate violation of this Policy and may lead to an additional complaint and consequences.”

Please let us know if you have any additional questions. As you know, your initial extension was granted until June 30. Please inform us when you are available for an interview, consistent with ODR’s obligation to ensure a prompt and equitable investigation. Consistent with Ilissa’s instructions about ODR’s routine practice, if we do not hear back from you by the end of the day on Tuesday, July 7, we will understand that you do not wish to participate in the ODR process as either a potential complainant or a witness.

Best,
Jessica

Jessica L. Shaffer
ODR Fellow
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