

Procedures for Discrimination & Sexual Harassment Complaints

1.0 Campus Statement on Discrimination and Sexual Harassment

Indiana State University is committed to creating and maintaining a positive learning and working environment and will not tolerate sexual harassment or prohibited discrimination. Indiana State University maintains and promotes a policy of nondiscrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, pregnancy, age, disability, or veteran's status. This carries out our obligations under Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Act of 1972; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act; applicable state statutes, and the Equal Opportunity & Affirmative Action Policy Statement of the Board of Trustees of Indiana State University.

Accordingly, students, and employees, visitors or applicants for employment who believe that they have been subject to such discrimination or sexual harassment or that they have been denied accommodation to which they are entitled for qualified disabilities are encouraged to bring the matter to the attention of the Office of Diversity & Affirmative Action.

2.0 Eligibility for Filing a Complaint

In order to be eligible to file a complaint under this policy, the complainant must be an ISU student, employee or applicant for employment within 180 calendar days prior to filing the complaint. All students and employees of ISU are covered by the nondiscrimination requirements of Title VII and IX.

The term employee or student as used in this policy refers to all individuals eligible under this section.

3.0 Time Limit for Filing a Complaint

The University will review any allegations that are based on events occurring no more than 180 calendar days prior to the date the complaint was filed. However, if the complainant did not know, and did not have reason to know of the event when it occurred, the 180 calendar days will begin as of the date the complainant learned or reasonably should have learned of the occurrence of the event, or, in the event of a continuing pattern, from the time of the last known event.

4.0 Scope of Authority

These procedures apply to discrimination and sexual harassment complaints initiated by Indiana State University students, students and employees, visitors or applicants for employment for actions occurring on campus property or in the areas of employment and related to any employment action, as well as in or outside the classroom, residence halls, study areas, within campus facilities or any programs connected to the University.

5.0 Offices for Filing Informal or Formal Complaint

Students and employees, who believe that they have experienced sexual or other prohibited harassment or discrimination, may go to the Office of Diversity & Affirmative Action for informal discussions of discrimination concerns, or to file a formal complaint. Informal discussions may result in informal actions to mitigate circumstances, *which will also be documented*. In the formal complaint process the University must notify the alleged offender of the identity of the complainant and the substance of allegations made in the complaint. Parties will be kept informed, *and complainants will be part of any discussions regarding any intended actions*.

6.0 Origination of a Formal Discrimination / Sexual Harassment Complaint

A. Within 180 calendar days of the event(s) giving rise to the complaint, an individual should obtain a copy of the *Campus Procedures for Discrimination and Sexual Harassment Complaints* and provide the relevant information to Office of Diversity & Affirmative Action, including:

- i. applicable policy alleged to be violated;
- ii. detailed description of events giving rise to the complaint;
- iii. name and status of the employee or student,
- iv. name of any representative;
- v. date of submission.

B. Upon receipt of the complaint, the Director, Office of Diversity & Affirmative Action (“the Director”) will make an initial determination whether the complaint appears to be subject to the procedures of the University and alleges facts that, if true, may demonstrate a violation of federal or state nondiscrimination or sexual harassment statutes and/or their implementing regulations, or campus policy.

C. If the complaint does not appear to violate law or policy, the Director will articulate the reasoning therefore at the meeting with, or within 15 working days of meeting with, the complainant.

D. If the complaint appears to be within the jurisdiction of the University and appears to violate law or policy, the Director will initiate an investigation to gather further information and will so inform the complainant.

E. In the event that a complainant declines to file a written formal complaint, and the Director has reason to believe that harassment has occurred, the Director may, at her/his discretion, proceed with an investigation in order to fulfill the responsibility of the university to respond appropriately. This will be done with full knowledge of the complainant.

7.0 Content of a Formal Complaint

The complainant will present, in writing, all issues and evidence known or which could reasonably have been known, related to the complaint. The written complaint will constitute the scope of the investigation. No additional issues may be presented after the close of the investigation unless there is evidence of facts unknown at the time of the investigation and/or could not reasonably have been known.

8.0 Investigation of a Formal Complaint

The Investigator will be trained in the appropriate techniques of investigation. Initiation of review of the complaint will commence as promptly as possible. This investigation will result in written findings of fact and recommendations within 45 working days from commencement of review. During this time the parties will be notified of the investigation process and will have an opportunity to respond and/or provide any relevant information.

With notice to parties, the investigation period may be extended if the investigator believes it necessary for an equitable resolution of the situation.

9.0 Informal Disposition of a Formal Complaint

At any time from the initiation of a complaint to the conclusion of the campus investigation, a complaint may be resolved informally provided the complainant, respondent and appropriate University Vice President mutually agree to the terms and conditions of the proposed settlement.

At any time from the initiation of a complaint to the conclusion of the campus investigation, either party or the University may suggest a confidential, non-binding mediation of the dispute. Both parties and the University must agree to any mediation and any resolution that arises there from.

10.0 Time Frame of Investigation

All time frames indicated in this policy are subject to suspension at the sole discretion of the University during periods outside of the regular Fall and Spring semesters. The parties will be so advised. All references to "day" means a working day.

11.0 Report of Findings of Facts in Complaint Against an Employee

The investigator will forward the investigative report to the respondent and the appropriate campus administrator, the appropriate Dean or Director for an informal complaint, the appropriate Vice President for a formal complaint. The investigative report will address all allegations, applicable legal standards, evidence and will be in writing.

Any recommended corrective action will not necessarily be limited to that requested by the complainant and may include suggested changes in University policy or procedures.

12.0 Disposition of a Complaint Against an Employee

Upon receipt of the findings and recommendations of the investigator, the administrator will review the findings of fact, conclusions and recommendation and may accept, reject, or modify the investigator's recommendations. For an informal complaint, the disposition will be a verbal discussion with the respondent setting out decision and the reasons. For a formal complaint, the disposition will be in writing, setting out the decision and the reasons for it. Notice of the disposition will be sent to all parties within 15 working days after that informal meeting.

13.0 Appeal to the President of the University by an Employee

Any party may appeal a formal complaint decision of the administrator to the President of the University within 20 working days of the posting of the administrator's formal written decision.

The appeal must be in writing and it must be based upon either (a) a claim of the denial of adequate due process during the initial investigation or (b) the existence of substantial new evidence that was unavailable during the initial investigation. The disposition letter will include a statement of reasons. The President, or the President's designee, will mail to all parties a written decision on any appeal within thirty (30) working days of receipt of the appeal. The President's decision constitutes the final decision at the campus level.

14.0 Disposition of a Complaint Against a Student

Where the initial complaint does not contain the basic elements of sexual harassment or an investigation shows no probability that sexual harassment occurred, the matter will conclude with notice to the complainant. Where it appears more likely than not that sexual harassment occurred, the investigative report will be sent to the Vice President for Student Affairs and the Student Judicial Center, as a misconduct issue. The report will include the finding of facts, statement of the law, conclusions and recommendation. The investigator or the Director of Diversity & Affirmative Action will be available to consult with judicial officers or hearing panels on the case. Notice of disposition of the case will be provided to the Office of Diversity & Affirmative Action. Complaints against students in their capacity as a university employee will be treated as complaints against an employee.

15.0 Retaliation Prohibited

Retaliation against a complainant for any complaint filed under this policy is strictly prohibited. A complaint of retaliation may be investigated and sanctioned under this policy as a separate and additional offense.

16.0 Recourse to State or Federal Agencies

An employee, upon conclusion of the campus administrative process, may file an appeal with the Indiana Commission for Civil Rights or the U.S. Equal Employment Opportunity Commission. Students and employees may appeal to the Office of Civil Rights of the U.S. Department of Education.

Indiana Commission for Civil Rights, 100 N. Senate Ave., Room N103, Indianapolis, IN, 46204, 317-232-2644 or 800-628-2909

Equal Employment Opportunity Commission, Indianapolis District Office, 101 W. Ohio St., Indianapolis, IN. 46204-4203

Office of Civil Rights, U.S. Dept. of Education, Chicago Office, 111 N Canal St., Suite 1053, Chicago, IL 60606-7204, 312-886-8434, ocr_Chicago@ed.gov