

# PROCEDURES FOR DISCRIMINATION AND SEXUAL HARASSMENT COMPLAINTS

---

1. **General.** The Office of Equal Opportunity works to ensure compliance with federal, state, and university equal employment opportunity and affirmative action policies and requirements. These procedures guide the Office of Equal Opportunity when handling any incident of alleged discrimination. Sexual harassment and sexual violence are both forms of illegal discrimination.
  - a. **Basic Approach.** Incidents of alleged discrimination should be addressed in a way that places a strong emphasis on resolving complaints informally. Our guiding beliefs are:
    - i. Conflict often occurs in the workplace, but it is usually resolvable.
    - ii. Most people wish to resolve conflict; however, they sometimes lack the perspective or the skills to do so.
    - iii. Resolving conflict requires early, open, and productive expression at its source, before that conflict escalates into an adversarial, litigious, and costly situation.
    - iv. The procedures used by the Office of Equal Opportunity should allow for the consistent and timely processing of all complaints and ensure that the Office of Equal Opportunity meets the university's legal obligations and its obligations to provide appropriate conditions of work and learning for faculty, students, and staff.
  - b. **Procedural Characteristics.** Procedures used by the Office of Equal Opportunity should have the following characteristics:
    - i. Fairness and Objectivity; the procedure, so far as possible, must protect the rights of all involved.
    - ii. Promptness; the faster the complaint gets addressed, the easier it is to resolve. A timely procedure benefits the acceptance of the resolution most readily.
    - iii. Confidentiality; staff should maintain great discretion, divulging information concerning the matter on a need-to-know basis only.
    - iv. Notice; Once a person becomes the focus of a complaint or is identified as a part of a resolution, that person must be notified of the complaint, the identity of the complainant, and the nature of the complaint.
    - v. Thoroughness; the Office of Equal Opportunity is committed to the principle that complete and accurate information should form the basis of responses to complaints.
    - vi. Finality; those responding to complaints should communicate the results of their investigations in a clear and timely way to provide a sense of completion. The uncertainty and scrutiny of a discrimination complaint can be disruptive and difficult for all involved to tolerate.
  - c. A copy of these procedures will be provided to all parties to inform them of the system to be followed in handling incidents of alleged discrimination.

- 2. Informal Procedures: Alternative Dispute Resolution.** (Not for Sexual Violence Investigations)
- a. Individuals who believe that discrimination compromises their educational or work experience should feel free to discuss their concerns with a faculty member, chair, dean, or supervisor.
    - i. In such situations, the offended party may also request the person consulted to speak informally with the alleged offender(s), informing them of the salient features of the complaint.
    - ii. If this process does not resolve the matter, or if the complainant prefers, then he/she may pursue Alternative Dispute Resolution or a Formal Investigation.
  - b. Alternative Dispute Resolution. The goal of Alternative Dispute Resolution (whether mediation or other ways of resolving complaints) is to provide a forum where the complaining and responding parties can, with the aid of the third party, come to a mutually agreed-upon resolution.
    - i. Alternative Dispute Resolution works only when both the complaining and responding parties voluntarily participate in the process; hence, the identity of the complaining party, the identity of the responding party, and the nature of the complaint will be known to all parties.
    - ii. The Equal Opportunity Officer may serve as an alternative Dispute Resolution facilitator/mediator or suggest another party to do so.
    - iii. By definition, informal resolutions do not include imposing sanctions, but they may involve mutually acceptable consequences.
    - iv. There are no time limits imposed here, but after 360 days from the alleged discriminatory act, there is no recourse to formal procedures.
    - v. The Equal Opportunity Officer shall take all steps necessary to protect the privacy of all parties.
      1. The Equal Opportunity Officer shall keep no record of the Alternative Dispute Resolution process, other than the names of the departments involved and the nature of the complaint, as needed for statistical reports, for monitoring equal employment opportunity and affirmative action obligations, and for training and other proactive efforts, and an agreement executed by all parties to the complaint that memorializes conclusion of the process, which shall include the satisfactory terms of resolution.
      2. The Equal Opportunity Officer shall release information about an individual only with his or her permission or when required by law.
- 3. Formal Procedures.** When either party wishes to bypass an informal resolution, when informal resolution fails and the complaining party chooses to pursue the matter formally, or for investigations of sexual violence allegations, then the following steps will take place.

- a. Signed Written Complaint. The complaining party must provide to the Equal Opportunity Officer a signed, written complaint that states in detail the basis for the complaint and the relief sought.
  - i. A complaining party should file promptly – preferably within 6 months of the alleged discriminatory act, but in no event later than 360 days of the alleged discriminatory act.
  - ii. Respondents shall be informed of the details of the complaint and receive a copy of the written complaint as soon as possible.
- b. Preliminary Review. The Equal Opportunity Officer shall, within 5 working days of receipt of the formal written complaint, then begin a preliminary review to determine if there is an apparent basis for the complaint.
  - i. This preliminary review may include talking with people other than the disputing parties, but the purpose of the review is not to determine the ultimate facts or the merits of the complaint; instead, its purpose is to determine whether there is a basis for proceeding further.
  - ii. The Equal Opportunity Officer shall make a written record of all actions taken.
- c. No Valid Basis. If the Equal Opportunity Officer determines that there is no valid basis for the complaint, then he/she shall present the results of the review to the complaining and responding parties.
  - i. The Equal Opportunity Officer shall take no further action.
  - ii. Any documents gathered during the process shall remain in the Office of Equal Opportunity, and will be considered an intra-agency advisory or deliberative material that expresses opinions and is used for decision-making.
- d. Formal Investigation. If the Equal Opportunity Officer determines that there is an apparent basis for the complaint, then he/she shall notify, within 10 working days of receipt of the formal, written complaint, the complaining and the responding parties and initiate a Formal Investigation.
  - i. Prohibited Information Sharing. Non-party witnesses participating in discrimination or harassment investigations are prohibited from sharing information revealed to them during the investigation.
  - ii. The responding party will be given 5 working days from the date of notification of a Formal Investigation to provide the investigator a written response to the complaint.
  - iii. With notice to all parties, the investigation period may be extended by the investigator if the investigator believes it necessary for an equitable resolution of the situation.
  - iv. The Formal Investigation will result in written findings of fact and recommendations within 30 working days of the date the Formal Complaint was filed with the Office of Equal Opportunity.

1. The report will be provided to the complainant, the respondent, and the appropriate vice president. For employees this means the operational vice president to whom the employee ultimately reports. For students this means the Vice President for Student Affairs.
2. The appropriate vice president will determine what sanctions, if any, will be imposed; except that for student complaints, the Vice President for Student Affairs may refer the matter to the Office of Student Conduct and Integrity.
3. Any party may appeal, within 20 working days, the decision of the vice president to the President of the University. Such an appeal must be in writing and must be based on either a claim of inadequate due process or the existence of substantial new evidence that was unavailable during the initial investigation; however, sanctions rendered by the Office of Student Conduct and Integrity may not be appealed to the President of the University.

**4. Emergency.**

- a. Provisional, emergency actions departing from these procedures may be taken by a senior University officer, with the advice of the University General Counsel, and must be followed as promptly as possible by steps providing respondents with the notice and opportunity to defend specified in Section 3 above.
- b. Retaliation. No one at the University may reprimand or discriminate against a person for having initiated in good faith an inquiry or complaint.

**5. False Charges.** To make false charges of discrimination or harassment (the charging party knowingly or recklessly makes a charge when there is no basis for the charge) is a serious offense, punishable by sanctions set forth below.

**6. Sanctions.**

- a. Faculty and Staff. Sanctions imposed for discriminatory behavior, harassing behavior, retaliatory behavior, or for making false charges regarding the same by a faculty or staff member include, but are not limited to, reprimand, suspension, demotion, and loss of tenure and dismissal.
- b. Students. Sanctions imposed for discriminatory behavior, harassing behavior, retaliatory behavior, or for making false charges regarding the same by a student include, but are not limited to, probation, suspension, and expulsion.

**7. Other Legal Remedies.** Complainants who are not satisfied with the disposition of their complaint may contact the Indiana Commission for Civil Rights, the U.S. Department of Education Office for Civil Rights, or the Equal Employment Opportunity Commission. Contact information is available at the Office of Equal Opportunity.