

PROCEDURAL GUIDELINES FOR HANDLING DISCRIMINATION AND HARASSMENT COMPLAINTS UNDER THE NONDISCRIMINATION POLICY OF THE UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN

Preamble:

As set forth in its Nondiscrimination Policy, <http://cam.illinois.edu/ix/ix-b/ix-b-1.htm>, the University of Illinois at Urbana-Champaign (hereinafter “University” or “Illinois”) is committed to ensuring that its learning and working environments are free from all forms of discrimination and harassment. The Nondiscrimination Policy dictates that:

It is the policy of the University not to engage in discrimination or harassment against any person because of race, color, religion, sex, pregnancy, disability, national origin, citizenship status, ancestry, age, order of protection status, genetic information, marital status, sexual orientation including gender identity, arrest record status, unfavorable discharge from the military, or status as a protected veteran and to comply with all federal and state nondiscrimination, equal opportunity, and affirmative action laws, orders, and regulations.

These Procedural Guidelines are intended to ensure that complaints of violation of the Nondiscrimination Policy are handled fairly, promptly, and effectively.

These Procedural Guidelines are intended to be the exclusive procedures used for complaints against employees of the University of Illinois at Urbana-Champaign alleging violations of the Nondiscrimination Policy and the Sexual Misconduct Policy.

Scope

These Procedural Guidelines apply to alleged violations of the University Nondiscrimination Policy and Sexual Misconduct Policy and may be invoked by students, applicants, visitors, faculty, staff, employees, or former employees of the University of Illinois Urbana-Champaign.

For complaints outside of the Non-discrimination Policy or Sexual Misconduct Policy, students or employees may have access to other resources or problem-solving processes on campus, including those offered through their units, the Office for Student Conflict Resolution, the Faculty Advisory Committee or the Professional Advisory Committee, Policy and Rules Non-Academic, and negotiated grievance procedures in collective bargaining agreements. Investigations under these Procedural Guidelines may be implemented irrespective of any criminal proceeding or administrative action pursued in accordance with applicable departmental or University policies.

Definitions

Applicant: An individual who has applied for admission as a student or program participant, or for employment with the University of Illinois at Urbana-Champaign.

Complainant: The individual(s) alleging a violation of the Nondiscrimination Policy or the Sexual Misconduct Policy.

Employee: Any individual who performs services for the University in exchange for pay, benefits, or University affiliate status, including but not limited to: tenure and tenure track faculty, specialized faculty, academic professionals, visiting academic professionals, civil service personnel, extra-help

personnel, academic hourly personnel, graduate assistants (including teaching assistants and research assistants), pre-professional graduate students, pre and postdoctoral fellows, and undergraduate and graduate hourly students.

Respondent: The individual(s) or unit alleged to have violated the Nondiscrimination Policy or the Sexual Misconduct Policy.

Filing a Complaint

Individuals who believe that they have been subjected to discrimination or harassment in violation of the Nondiscrimination Policy should submit an online report [here](#) or contact the Office of Diversity, Equity, and Access (ODEA) at (217) 333-0885 or via email at diversity@illinois.edu.

For individuals who have access needs (i.e. require a reasonable accommodation), please contact ODEA for assistance with filing a complaint.

A former employee may file a complaint alleging discrimination and/or harassment related to the individual's employment with the University and are encouraged to file complaints within thirty (30) calendar days following the employee's termination of employment from the University.

Under appropriate circumstances, unit executive officers may file a complaint on behalf of an individual or individuals who are alleging discrimination under the Nondiscrimination Policy and/or Sexual Misconduct Policy. In these circumstances, individuals who are alleged to have experienced the discriminatory conduct will be afforded the same notifications as complainants and are allowed to have third party support persons participate in interviews (see Support Persons).

Complainants are encouraged to provide as much information as possible about the alleged violations of the Nondiscrimination Policy and/or Sexual Misconduct Policy, including:

- The name(s) of the individual(s) alleged to have engaged in the discriminatory or harassing practices [referred to throughout the rest of these Procedural Guidelines as the Respondent(s)];
- A description of the alleged discriminatory actions or decisions, incident(s) of harassment, and/or other actions that form the basis of the complaint;
- A list of the dates upon which the alleged discriminatory or harassing practices took place as well as any other relevant date(s); and
- The name(s) of any witnesses who might be able to verify the allegations, if applicable.

The complaint should also identify the protected categories that are at issue in the discrimination allegations.

An investigator may conclude, even assuming the truth of the Complainant's allegations, that the Complainant has not alleged a violation of the Nondiscrimination Policy. In that instance, the investigator shall refer the Complainant to other University resources, as appropriate, and notify the Complainant of appeal rights set forth below.

Even absent a complaint or investigation request, Illinois may investigate suspected violations of this policy to the extent possible and to the extent necessary to comply with applicable law.

Notification to Respondent and Relevant Unit Executive Officers

When an investigation is initiated, ODEA will promptly notify the Respondent and the Respondent's supervisor, department head or other appropriate executive officer by providing a written summary of the complaint. Such notification may be delayed if appropriate due to legal or other compelling reasons that impact the integrity of the investigation or other important institutional reasons. In such circumstances, the investigator will consult with the Director of ODEA and University Legal Counsel before delaying notification. At the appropriate time, Respondent will be provided a written copy of a summary of the complaint. Respondent(s) will be allowed fourteen (14) calendar days to respond in writing to the allegations against them upon their receipt of the written summary.

Role of Investigators

Investigators are neutral fact finders. As such, investigators do not function as advocates for any of the involved parties. Investigators will, however, inform individuals about other campus offices where they may seek support or advocacy.

Complainant and Respondent Participation in Process

The Complainant¹ and Respondent will be provided with the following opportunities in connection with the investigation of alleged or suspected violations of this policy:

- The opportunity to speak on their own behalf.
- The opportunity to identify witnesses who can provide information about the alleged conduct at issue.
- The opportunity to submit other evidence on their behalf.
- The opportunity to review any information that will be offered by the other party in support of the other party's position (to the greatest extent possible and consistent with the Family Educational Rights and Privacy Act ("FERPA") or other applicable law).
- The right to be informed of the outcome of the investigation (to the greatest extent possible and consistent with FERPA or other applicable law).
- The opportunity to appeal the outcome of the investigation.

Support Persons

Complainant and Respondent(s) may be accompanied by a support person or an advisor of their choice to any meeting that occurs under these procedures. An advisor or support person may not, however, stand in place of either the Complainant or the Respondent, or otherwise participate in the process. Support persons and advisors are held to the same standards of confidentiality as other participants (see below). Individuals with a real or perceived conflict of interest in a given matter, based on their relationship with any of the involved parties, cannot serve as support persons or advisors (relationships where a conflict of interest will be assumed include, but are not limited to, co-respondents, potential

¹ If a complaint is filed by a unit executive officer, the individuals alleged to have experienced the discriminatory conduct shall be offered the same opportunities as a complainant in connection with the investigation of alleged or suspected violations of this policy.

witnesses, individuals holding supervisory positions over any participants or other relationships that might suggest an individual's inability to be objective and neutral). For more information, see the Conflict of Interest section below.

Witnesses Participation in Process

Witnesses are not allowed to bring support persons or advisors because of the confidential nature of the process. If, over the course of an investigation, the facts and allegations indicate that a witness may have engaged in a violation of the Nondiscrimination Policy or Sexual Misconduct Policy, that witness shall be so apprised and allowed to bring a support person, if he or she chooses, to subsequent interviews.

Duty of Cooperation, Confidentiality, and Non-Retaliation

All employees have an obligation to cooperate in investigations of alleged violations of the Nondiscrimination Policy or the Sexual Misconduct Policy. Failure to do so may result in disciplinary action.

A Complainant's failure to participate (e.g., by failing to furnish information requested by the investigator or to be available for interview by the investigator) may affect the University's ability to investigate the matter and may result in the complaint being dismissed.

Illinois strives to maintain confidentiality to the greatest extent possible. Thus, all participants (including Complainant, Respondent(s), witnesses, support persons, advisors and administrators) involved in any proceedings held under these Procedural Guidelines may be required to refrain from discussing the alleged or suspected violations, particularly when necessary to protect witnesses and the integrity of the investigation process. Complainants are advised, however, that there may be situations where the University's obligation to investigate alleged or suspected violations of this policy will override a Complainant's desire for confidentiality.

Retaliation as defined in the Nondiscrimination Policy in any form will not be tolerated against any person who: reports an alleged violation of this policy, is interviewed or provides testimony about alleged violations of this policy, or who, in any other way, participates in an investigation of or disciplinary hearing regarding alleged violations of this policy. Employees or students who are found to have engaged in retaliation will be subject to disciplinary action.

Investigation Process

ODEA will determine the most effective method of investigating alleged violations of the Nondiscrimination Policy and the Sexual Misconduct Policy. In the normal course, an investigation will include: (a) interviewing the Complainant, the Respondent(s), and any other relevant individuals and witnesses, and (b) reviewing written statements, documents, records, and other relevant evidence.

The University's ability to investigate a specific allegation as well as the extent to which an allegation can be investigated will be affected by any number of factors, including the nature of the allegations, the availability of evidence, whether the Complainant and/or alleged victim is willing to participate in an investigation, the location where the alleged conduct occurred, and Illinois' access to information

relevant to the alleged or suspected violation of this policy. Illinois is nonetheless committed to investigating all alleged and suspected violations of this policy to the fullest extent possible under the circumstances.

Evidentiary Standard of Proof

At the conclusion of the investigation, the investigator shall issue an investigation report including findings of fact and conclusions. The investigator shall use the preponderance of the evidence standard. This standard requires that the evidence supporting each finding is more convincing than the evidence offered in opposition to it (in other words, the finding is more likely true than not true).

Allegations Must Be Made in Good Faith

If there is evidence that the complaint was filed without a reasonable basis in fact and honest belief, the investigator shall include that evidence in his or her report. Such conduct could constitute a violation of this policy and shall be reported to the appropriate unit executive for appropriate action, including possible disciplinary action.

Investigation Report

The investigator shall prepare a report at the conclusion of the investigation. The investigation report will include findings of facts and conclusions regarding whether the Nondiscrimination Policy and/or the Sexual Misconduct Policy has been violated. In the investigation report, the investigator may also offer recommendations for remedial or other actions.

The investigator shall provide the investigation report to the Complainant, the Respondent, and the appropriate unit executive officer(s). Absent institutional reasons that require a different approach, the investigator shall provide the report to the Complainant and Respondent at the same time.

The investigator shall issue the investigation report within 60 calendar days from the date the complaint is filed (or investigation is initiated, if no complaint is filed), unless the investigator has been granted an extension of time. Such extensions may be sought from the Director of ODEA and will be granted when necessary to ensure a thorough investigation.

Appeals

The Complainant and the Respondent each have the right to file an appeal to the Associate Chancellor overseeing ODEA based on:

- the investigation's factual findings,
- the investigation's conclusions,
- alleged violations of these Procedural Guidelines.

Appeals must be submitted to the Associate Chancellor within fourteen (14) calendar days of the issuance of the investigation report.

The appeal must be submitted in writing with all supporting materials attached.

The Associate Chancellor shall decide the appeal as soon as possible, but no later than forty-five (45) calendar days of the final submission of appeal materials (or as soon as feasible when extensions are necessary). The Associate Chancellor's decision shall be in writing, shall include an explanation for the decision, and shall be submitted to the Complainant, the Respondent, the relevant unit executive officer(s) of the respondent's employing unit, and ODEA.

A Complainant may also appeal an investigator's conclusion that, assuming the truth of the allegations, that the complainant has not alleged a violation of the Nondiscrimination Policy or the Sexual Misconduct Policy. Appeals must be filed within fourteen (14) calendar days of the investigator's decision and submitted to the Director of ODEA.

Corrective Action

If a violation of the Nondiscrimination Policy or the Sexual Misconduct Policy is found, the relevant University unit shall determine and take appropriate corrective and/or disciplinary action, up to and including dismissal if warranted. All corrective action and discipline will be imposed in accordance with applicable University statutes and relevant University rules and regulations.

When required to do so by law or federal guidance, the university will disclose to the Complainant any disciplinary sanctions imposed against the Respondent (see, e.g., OCR's guidance related to cases involving sexual violence).

Respondent(s) may have an opportunity to challenge or appeal corrective and/or disciplinary actions through the applicable disciplinary policies and procedures and/or grievance processes. If no violation of the Nondiscrimination Policy or the Sexual Misconduct Policy is found, the University may still take corrective action if other unit or University rules have been violated and/or when otherwise required based on institutional interests and needs.

Other Procedural Considerations

Modifications of these Procedural Guidelines:

ODEA may, upon finding good cause, modify these procedures in the interests of promoting full and fair resolution of suspected or alleged violations of the Nondiscrimination Policy or the Sexual Misconduct Policy in accordance with applicable law.

Conflict of interest:

A conflict of interest may arise if a participant, administrator, or investigator has a significant professional or personal involvement with the facts or the parties to a dispute. Any participant, administrator, or investigator who has a conflict of interest in a dispute covered by these procedures, or a concern about a conflict on the part of another, shall report it to the Director of ODEA or the Associate Chancellor to whom ODEA reports. The Director or the Associate Chancellor shall decide how to address the situation. If there is a conflict of interest involving the Director or Associate Chancellor or successively higher level administrators, the next higher level administrator shall decide how to address the situation.

Interim corrective administrative action:

At any time after a complaint has been filed or, if no complaint has been filed upon the initiation of an investigation of suspected violations of the Nondiscrimination Policy or the Sexual Misconduct Policy, the ODEA may petition the appropriate University unit or official to take corrective/interim administrative action deemed necessary by ODEA to protect the safety, security and/or educational opportunities of the Complainant and the best interests of the University. For example, the University reserves the right to suspend any member of the Illinois community suspected or accused of violating the Nondiscrimination Policy or Sexual Misconduct Policy or to take any other interim measures deemed appropriate, pending the outcome of an investigation or grievance, so long as such action is permitted by and taken in accordance with any other applicable disciplinary procedures. Other interim measures include, but are not limited to, removing a student from campus housing or an employee from a particular work environment, modifying work or course schedules, and issuing an order prohibiting the Respondent from having contact with the Complainant. In situations involving suspected or alleged sexual harassment, sexual assault, or sexual violence, the University also reserves the right to take steps to protect the Complainant as deemed necessary during the pendency of the investigation and resolution process (e.g., allowing for a change in academic situation, issuing a “no contact” order to the accused, etc.). Any such interim steps will be taken in a manner that minimizes the burden on the Complainant to the extent possible and in accordance with any other applicable disciplinary procedures.

Date Issued: December 21, 2016