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UNO Website-Office of Equity Access and Diversity-Issue Resolution and Complaint Procedures for Prohibited Discrimination

UNO Office of Equity, Access and Diversity
University of Nebraska at Omaha

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ISSUE RESOLUTION AND COMPLAINT PROCEDURES FOR PROHIBITED DISCRIMINATION UNIVERSITY OF NEBRASKA AT OMAHA

The University of Nebraska at Omaha declares and affirms a policy of equal education and employment opportunities, affirmative action in employment, and nondiscrimination in providing services to the public. Therefore, the University of Nebraska at Omaha shall not discriminate against anyone based upon race*, color, sex**, sexual orientation, age, religion, disability, national or ethnic origin, marital status, Genetic Information Act (GINA), or Vietnam-era veteran status.

*Racial harassment is considered a form of racial discrimination.

**Sexual harassment is considered a form of sex discrimination.

Purpose

The purpose of these procedures is to secure, at the lowest possible level, equitable solutions to the problems which may affect students, faculty, staff, administrators, visitors, or other invitees, licensees, or university volunteers who believe they have been discriminated against within the university's prohibited discrimination policy. Resolution of any concern or complaint is encouraged, but not required, at each step of the process. Any form of retaliation for filing or assisting with an investigation or charge is not permitted. The university reserves the right to take appropriate action in cases of alleged prohibited discrimination affecting the academic or work environment in the absence of a complaint from an individual.

Oversight and Information

The Assistant to the Chancellor for Equity, Access & Diversity is the established representative of the university on prohibited discrimination issues.

The university's nondiscrimination policy and complaint procedures will be widely disseminated through a variety of media and clearly posted in strategic locations throughout the university campus. Anyone seeking information about the nondiscrimination policy or complaint procedures should contact the Assistant to the Chancellor for Equity, Access & Diversity.

Informal Resolution

If appropriate, persons are encouraged first to speak about their concerns with the party in question, relevant manager/supervisor, administrator or academic department chair/school director, or university ombudsperson to attempt to resolve the issue(s). A satisfactory resolution may be readily found.

Notification and Initial Investigation

Complainants who believe they have been discriminated against have thirty working days after the occurrence of the alleged prohibited discrimination to informally resolve the issue(s) to their satisfaction or to contact Equity, Access & Diversity Office. This time deadline can be extended if there are extenuating circumstances that must be

documented by the complainant and determined by the Assistant to the Chancellor for Equity, Access & Diversity to justify a delay.

Informal Investigation

From the time the Assistant to the Chancellor for Equity, Access & Diversity is made aware of a complaint, the Assistant to the Chancellor for Equity, Access & Diversity will immediately notify the respondent, in writing, that a complaint has been received and will explain the nature of the complaint. The Assistant to the Chancellor for Equity, Access & Diversity will have ten (10) working days to conduct an informal confidential investigation and determine whether or not the complaint merits further action. If it is determined that further action is warranted, the process listed below will begin within seven (7) working days. Both parties will be notified in writing as to the nature of this decision.

If Equity, Access & Diversity deems that the complaint merits no further action, the Assistant to the Chancellor for Equity, Access & Diversity will appoint one individual, judged most qualified, from among the three (3) university ombudspersons and the Academic Affairs, Student Affairs, and Business and Finance Vice Chancellors or their designated representatives to review the decision. The reviewer will have ten (10) working days to examine the case and respond to the Assistant to the Chancellor for Equity, Access & Diversity. If the reviewer agrees with the decision of the Assistant to the Chancellor for Equity, Access & Diversity, no further action will be taken by the university. If the reviewer disagrees with the decision of no further action, the formal procedures listed below will begin within seven (7) working days of the reviewer's decision.

Formal Procedures

Formal Complaint

Within seven (7) working days of the decision of the Assistant to the Chancellor for Equity, Access & Diversity or the reviewer determining further action is warranted, the complainant must meet with the Assistant to the Chancellor to review/discuss the incident or situation, attempts at resolution (if any), as well as to learn about formal procedures. If the complainant wants to file a formal complaint, he or she must do so in writing directly to the Assistant to the Chancellor for Equity, Access & Diversity within seven (7) working days following this consultation. If the complainant is unable to write the complaint, it will be related orally or via the appropriate medium, transcribed into written form, and verified for accuracy by the complainant.

Notification of the Respondent and the Equal Opportunity Review Panel

Within three (3) working days of receiving the written complaint, the Assistant to the Chancellor for Equity, Access & Diversity will notify the respondent that a formal written complaint has been filed, supply a copy of the written complaint to the respondent, and provide a description of the procedures to be followed. This notification will be made by certified or registered letter, postage prepaid, and return receipt requested, addressed to the most recent address listed in university records. Within five (5) working days of receiving the written complaint, the Assistant to the Chancellor for Equity, Access & Diversity will select and notify the Equal Opportunity Review Panel that a formal inquiry will be required.

Equal Opportunity Review Panel

Composition

The Equal Opportunity Review Panel will consist of five members--two full-time faculty, two staff (administrative, managerial/professional, and office/service), and one student selected by the Assistant to the Chancellor for Equity, Access & Diversity from a pool of six faculty selected by the Faculty Senate, six staff selected by the Staff Advisory Council, and six students selected by Student Government. Students must be currently enrolled in at least 6 credit hours (undergraduate and/or graduate) and in good academic standing.

The pool of names will be used until the beginning of the following academic year. If during the year, a nominated person becomes ineligible to be in the pool, the appropriate body, (i.e., Faculty Senate, Staff Advisory Council or Student Government) will nominate a replacement for that person in the pool. Selection of pool members and actual Panel members will be done in a manner that attempts to provide the widest possible diversity with respect to gender, ethnic background and other relevant socio/demographic traits. Should a selected member of the panel identify himself/herself as having a legitimate conflict of interest, the Assistant to the Chancellor for Equity, Access & Diversity shall select a different member from the pool of names so as to maintain the required representation.

Formal Inquiry

Upon selection and contact by the Assistant to the Chancellor for Equity, Access & Diversity panel members will have ten (10) working days to convene, select a chair (student members are not eligible to chair), and schedule the start of the formal inquiry. The inquiry will be conducted as expeditiously as possible. During the inquiry the Panel will review the complaint in its entirety and conduct an impartial inquiry on the complaint. Documents and other information relevant to the complaint may be requested by the Panel, and witnesses may be called by the Panel. The complainant (and his/her representative[s]), the respondent (and his/her representative[s]), and witnesses (if any) will only be present in the inquiry when their own testimony is being sought by the Panel. The inquiry will be audio taped.

The Panel has five (5) working days after the inquiry to reach a preliminary recommendation. In the event that it concludes that the complaint should proceed further, both parties will have access to all evidence presented before the Panel, including the audio tape. When the Panel concludes no additional action is warranted, neither of the parties will have access to the evidence. In cases when the Panel concludes that the complaint should go forward, both parties will have five (5) working days to rebut the evidence. The Panel then will have ten (10) working days to consider rebuttals and present its advice in writing to the appropriate Vice Chancellor. This written advice should report any dissenting views or include a written minority statement if the minority on the Panel chooses to do so. The Panel's advice will be forwarded to the Vice Chancellor of the Administrative unit in which the respondent is assigned (i.e., Vice Chancellor for Academic Affairs for faculty respondents, Vice Chancellor of Business and Finance for staff respondents, Vice Chancellor for Student Affairs for student respondents).

Upon receipt of the Panel's advice, the Vice Chancellor will have seven (7) working days in which to reach a conclusion whether or not this set of circumstances warrants additional investigation. The Vice Chancellor will communicate his/her decision in writing to the complainant and to the respondent. If the Vice Chancellor's conclusion is that no further action be taken, the university will take no further action. If, on the other hand, the conclusion is that additional investigation should be undertaken, it will be in accord with and/or follow procedures

detailed in the Bylaws of the Board of Regents of the University of Nebraska and policies promulgated pursuant thereto, and, in the case of faculty respondents who are members of the bargaining unit, in accord with the Collective Bargaining Agreement between the Board of Regents of the University of Nebraska and the University of Nebraska at Omaha Chapter American Association of University Professors.

Guidelines/Clarification

1. Accusations of prohibited discrimination are of utmost seriousness and should not be made casually or without cause. This policy shall not be used to bring frivolous or malicious charges against students, faculty, staff, administrators, visitors or other invitees, licensees, or university volunteers. The university reserves the right to take appropriate action against individuals who are determined to have brought frivolous or malicious charges. However, this provision shall not be construed in any manner that might unreasonably deter any person from bringing forth a concern. No person shall be retaliated against for exercising his/her rights under these procedures.
2. In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom and in all other education programs and activities of the university. In addition, First Amendment rights apply to the speech of students and faculty. (Federal Register/Vol.62, No. 49, March 13, 1997)
3. Working days are those days that the university offices are scheduled to be open.
4. Time limits can be extended by the Assistant to the Chancellor for Equity, Access & Diversity if there are extenuating circumstances that must be documented and determined by the Assistant to the Chancellor for Equity, Access & Diversity.
5. Failure by university representatives to communicate the decision on a complaint within the specified time limits at any step of these procedures will not prejudice the complaint.
6. Failure by the complainant to pursue a complaint to the next step within the specified time limits at any step of the procedures, barring any extenuating circumstances, which must be documented by the Assistant to the Chancellor for Equity, Access & Diversity to justify a delay, will be considered acceptance of the last decision rendered.
7. All documents, communications, and records dealing with a complaint and processing of a complaint (except for those materials allowed in personnel files by existing policies or agreements) will be kept confidential and secured in the Office of Assistant to the Chancellor for Equity, Access & Diversity. The records will be retained for such time as may be legally required and/or deemed appropriate by the university; thereafter, all records will be destroyed.
8. All meetings and inquiries under this procedure will be conducted privately and will include only the parties specified in the procedure for that stage of the procedure.

9. If, as determined by the Panel, additional highly relevant facts that might alter the outcome of the decision are presented during the Panel's proceedings, a recess of reasonable length as determined by the Panel may occur.
10. These are regarded as administrative, not legal procedures. However, in the formal stage(s) both the complainant and/or the respondent have the right to legal representation in the form of an advisor at his/her own expense.
11. For hourly paid employees, time spent during scheduled working hours in meeting with the Assistant to the Chancellor for Equity, Access & Diversity or in the formal steps of the procedure is treated as time worked for pay purposes.
12. For faculty respondents, any decision on the part of the Vice Chancellor that additional investigation is warranted that could lead to disciplinary action must be forwarded to the Professional Conduct Committee. (Such sanctions could include sensitivity training, formal or informal reprimands, and an oral or written apology.)
13. Inquiry panels will not include faculty members currently serving on the Professional Conduct or Academic Freedom and Tenure Committees.
14. Failure or lack of clarity of the audiotape will not compromise the proceedings. In order to avoid such circumstances, two separate recordings will be made.