



# UNIVERSITY OF NORTH FLORIDA

Policy Number	Subject	Effective Date	Revised Date
1.0060	Equal Opportunity Program's Complaint and Investigation Procedures	10/27/06	
<b>Responsible Unit/Division: Equal Opportunity Programs</b>			
<input type="checkbox"/> New Policy Proposal	<input type="checkbox"/> Major Revision of Existing Policy	<input type="checkbox"/> Minor/Technical Revision of Existing Policy	<input type="checkbox"/> Reaffirmation of Existing Policy

## I. OBJECTIVE AND PURPOSE

The University has established the following guidelines and procedures to address complaints of discrimination, harassment and retaliation in violation of the University's Equal Opportunity and Diversity Regulation and its Sexual Harassment Regulation. The purpose of these procedures is to ensure compliance with the University's EOP regulation to enable the University to address circumstances that may conflict with its commitment to provide an inclusive and welcoming environment for all members of the University community, including students, faculty, staff visitors, prospective employees or other individuals interacting in our community.

## II. STATEMENT OF DELEGATION

The President has delegated to the Director of the Office of Equal Opportunity Programs (hereafter the "Director") the authority and responsibility to receive, investigate and conciliate complaints, or investigate situations that are brought to the Director's attention, of conduct alleged to be in violation of the University's Equal Opportunity and Diversity Regulation and Sexual Harassment Regulation. Accordingly, any member of the University community who believes he or she has been subjected to discrimination or harassment based on race, color, religion, national origin, sex, sexual orientation, age, disability, and/or veterans status or any individual who believes he or she has been subjected to retaliation related to an allegation of discrimination or harassment based on the aforementioned categories, may seek guidance, counseling or file a complaint by

contacting: Director, Office of Equal Opportunity Programs, University of North Florida, J. J. Daniel Hall, Room 2400, 4567 St. Johns Bluff Road, South, Jacksonville, Florida 32224-2645, (904) 620-2507 Voice & TDD and (904) 1004 Fax.

Any individual seeking guidance from the Director may contact the Director to informally discuss his or her concerns regarding a potential violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation. However, if the individual desires that the Director take action to address his or her concerns, the individual will be advised of the University's formal procedures and requirements for addressing alleged violations of these regulations including the requirement of filling an EOP intake form pursuant to this procedure.

### III. STATEMENT OF REQUIREMENTS

The following requirements and procedures apply to the EOP complaint and investigation process:

#### Requirements and Scope of Process.

1. Required Reporting -- All supervisors are required to promptly report to the Director (either verbally or through written communications) allegations, reports or instances of alleged discrimination and/or harassment, including sexual harassment by or against any person covered by this process. Additionally, all faculty with instructional responsibilities are required to promptly report to the Director (either verbally or through written communications) allegations, reports or instances of alleged discrimination and/or harassment by or against a student in violation of the University's Equal Opportunity and Diversity Regulation.
2. Timeliness of Complaint -- Any complaint filed under this section must be filed with the Director within one hundred twenty (120) calendar days after the alleged incident of discrimination.
3. Available Remedies -- The filing of a complaint under this procedure shall not affect a complainant's right to file a timely charge of discrimination pursuant to an appropriate federal or state statute, including the filing of a timely charge with the Florida Commission on Human Relations or the Equal Employment Opportunity Commission.
4. Participation of Students, Faculty and Staff -- All members of the University community are expected to cooperate with the Director in the investigation of allegations of discrimination, harassment or retaliation in violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation. Should a member of the community fail to cooperate with the Director, such conduct would constitute reasonable grounds for discipline.
5. Confidentiality -- Confidentiality will be maintained to the extent possible. The fact that an individual has sought guidance from the Director or that a complaint has been filed, including the grounds for which the individual seeks assistance from the Director, will only be communicated to those who require such information to fulfill their responsibilities. Additionally, the documents related to an EOP investigation are not public record during a pending investigation and in the case of alleged sexual harassment

the names of the complainant and any witnesses are exempt from disclosure even after the EOP investigation is completed.

6. False Claims or Statements – Any person who knowingly or fraudulently files a false or fraudulent EOP complaint will be referred for discipline. Similarly, any person who knowingly making false statements in any investigation, proceeding, or hearing regarding alleged discrimination and/or harassment and/or retaliation pursuant to this procedure will be referred to the appropriate University representatives for disciplinary action.

7. Standard of Proof -- The standard of proof will be that, based upon a preponderance of the evidence, the Director's investigation resulted in a finding that there was reasonable cause to believe that Complainant was subjected to adverse treatment in violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation.

8. Not a Disciplinary Proceeding – The Director's processing, review and investigation of an EOP complaint alleging violation of the University's Equal Opportunity and Diversity Regulation and/or Sexual Harassment Regulation is a fact finding process and does not constitute a disciplinary proceeding. Therefore, any discipline that may flow from the Director's findings is a distinct and separate process not subject to these procedures.

#### IV. STATEMENT OF PROCEDURES

##### A. The Complaint and Investigation Process.

Intake Process: An individual seeking assistance from the Director will first be asked to complete an EOP complaint form that describes the manner in which the individual believes he or she has suffered adverse treatment in violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation and on what grounds the individual suffered discrimination, harassment or retaliation. (The EOP complaint form may be downloaded from this site by clicking below.) The Director will then meet with the individual to discuss the EOP Complaint and his or her concerns and allegations that they suffered adverse treatment in violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation.

EOP Complaint (form to be downloaded)

Informal Resolution: After the intake process is completed, the Director will first explore with the individual (hereafter the "Complainant") the opportunity to resolve the complaint prior to invoking the formal review and resulting investigatory procedures set forth below. The specific role of the Director in such instances is to determine the position of each party, to ascertain in what respect and on what issues each party may be prepared to make an adjustment, and to assess the possibilities of resolving the matter amicably through mediation, conciliation, and persuasion.

Complaint Procedures: If the Complainant's concerns cannot be resolved informally and the individual desires to proceed with the formal complaint procedure, or if the Complainant wishes to bypass the informal resolution process, then the Director will:

1. Determine whether the EOP complaint contains sufficient information to review the Complainant's allegations or whether additional or supplemental information is needed

from the Complainant for the Director to adequately review and/or investigate the Complainant's allegations of discrimination, harassment or retaliation in violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation.

2. Review the specific allegations raised by the Complainant to determine whether the Complainant has articulated sufficient grounds to believe that the Complainant suffered adverse treatment in violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation. Should the Director find that after reviewing the complaint and meeting with the Complainant that he or she has failed to allege sufficient facts where it could reasonably be found that there had been a violation of the applicable regulation, the Director will terminate the investigative process and provide Complainant a memorandum that discusses the Director's determination why the Complainant has failed to allege sufficient grounds to investigate whether there was a violation of the applicable regulation.

3. Notify the alleged offender (hereafter the "Respondent") of the complaint, of the allegations contained therein and have the Respondent provide a written response to Complainant's allegations. At all times during the investigatory process, the Complainant and Respondent shall be kept informed of the status of the Director's investigation.

4. Conduct a full and complete investigation of the allegations contained in the complaint by interviewing witnesses, gathering documentation or taking whatever other action the Director believes is necessary to evaluate Complainant's allegations of discrimination, harassment or retaliation.

5. Prepare a written decision outlining the pertinent portions of the Director's investigation that details the Director's findings regarding whether the Complainant was subjected to adverse treatment in violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation. A copy of the Director's written decision will be provided to both the Complainant and the Respondent. If the Director concludes that there is reasonable cause to believe that Complainant was subjected to discrimination, harassment or retaliation in violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation, the Director's written decision, and recommendation (if applicable) will be submitted to the appropriate Vice President for appropriate action.

#### B. Request for Reconsideration

Either party, the Complainant or Respondent, may request that the Director reconsider his or her decision by filing a written request for reconsideration with the Director within ten (10) business days after the receipt of the Director's written decision. The request for reconsideration shall specify the basis for the request. Upon receipt of a request for reconsideration, the Director will forward a copy of the request to the other party who may respond, if applicable, to the request for reconsideration. Significantly, the Complainant or Respondent may not request reconsideration based solely on the fact that the party does not agree with the Director's decision. Rather, grounds for seeking reconsideration of the Director's decision are limited to the following:

There is newly discovered or other relevant evidence that was not relied upon by the Director in reaching his/her decision.

The Director will issue a response to the request for reconsideration within twenty (20) business days after receipt of the request.

C. Request for Review: Either party, the Complainant or Respondent, may appeal the Director's decision by filing a written request for review to the Office of President within ten (10) business days after the receipt of the Director's decision. This 10 day period is applicable to both those who have gone through the Request for Reconsideration process in step B above or for those who are appealing the Director's decision on other grounds (i.e. – those who do not agree with the Director's interpretation of the evidence presented in reaching his/her decision regarding whether there was a violation of the Sexual Harassment or Equal Opportunity and Diversity Regulation). However, if the request for review is based upon there being new or other relevant evidence that should have been considered by the Director in reaching his/her decision, to be eligible for review at this level, the party seeking review must have followed the Request for Reconsideration process.

The party requesting a review of the Director's decision, or reconsideration decision, shall specify the basis for the requested review and will have the opportunity to meet with the President, or his/her designee, within twenty (20) business days of filing the request for review to discuss the appealing party's basis for contesting the Director's decision. Within ten (10) business days following the request for review meeting, the appellant will be provided a letter of final determination from the President, or his/her designee, setting forth the University's final position regarding the Equal Opportunity and Diversity Regulation complaint or Sexual Harassment Regulation.

#### D. Compliance Audit

If the Director is made aware of a potential violation of the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation, despite an actual complaint not being filed, the Director may conduct a review of a department or unit's compliance with these regulations utilizing the same investigatory procedures as outlined above. However, such compliance audit will not focus on the allegations of one particular person; rather, the compliance audit will be based on unit or department's general compliance with Equal Opportunity and Diversity or Sexual Harassment regulations. Accordingly, if a person covered under these regulations has specific complaints that he or she desires the Director to investigate, the covered person should avail him or herself of the individual complaint procedure as the individual's specific concerns may not be addressed in the compliance audit.

After completion of the Compliance Audit, the Director will then prepare a written report of his/her findings to be shared with the appropriate University administrators and where applicable, suggest corrective action to have the unit or department be in compliance with the University's Equal Opportunity and Diversity Regulation or Sexual Harassment Regulation. The compliance Audit will not include the request for reconsideration or request for review portions on the investigation process as the audit will not be focused upon one individual, or respondent's conduct, but on a department or unit's compliance with the University's Equal Opportunity and Diversity and its Sexual Harassment Regulations.