

INDIANA UNIVERSITY BLOOMINGTON
DISCRIMINATION AND HARASSMENT
COMPLAINT PROCEDURE GUIDELINES

(Formerly Affirmative Action Complaint Procedure Guidelines)

(BFC: 4/29/97, 12/01/2009; Amended BFC 4/15/08, BFC Agenda Committee 5/22/09)

Indiana University prohibits discrimination and harassment based on arbitrary considerations of such characteristics as age, color, disability, ethnicity, sex, marital status, national origin, race, religion, sexual orientation, gender identity or veteran status. The Office of Affirmative Action works to ensure compliance with federal, state and university equal employment opportunity and affirmative action policies and requirements. These procedures guide the Office of Affirmative Action in Bloomington when handling any incident of alleged discrimination related to the Bloomington campus.

I. BASIC POLICY AND APPROACH

A. Incidents of alleged discrimination should be handled in a way that places a strong emphasis on resolving complaints informally. Our guiding beliefs are:

- * Conflict often occurs in the workplace, but it is usually resolvable.
- * Most people wish to resolve conflict; however, they sometimes lack the skills necessary to do so.
- * Resolving conflict requires early, open, and productive expression at its source, before that conflict escalates into an adversarial, litigious, and costly situation.
- * The procedures used by the Office of Affirmative Action should allow for the consistent and timely processing of all complaints and ensure that the Office of Affirmative Action meets the university's legal obligations and its obligations to provide appropriate conditions of work and learning for faculty, students, and staff.

B. Procedures used by the Office of Affirmative Action should have the following characteristics:

- * **Fairness and Objectivity.** The procedure, so far as possible, must protect the rights of all involved.
- * **Promptness.** The faster the complaint gets addressed, the easier it is to resolve. A timely procedure benefits the acceptance of the resolution most readily.
- * **Confidentiality.** Staff should maintain great discretion, divulging information concerning the matter on a need-to-know basis only.
- * **Notice.** Once a person becomes the focus of a complaint or is identified as part of a resolution, that person must be notified of the complaint, the identity of the complainant, and the nature of the complaint.

- * **Thoroughness.** This office is committed to the principle that complete and accurate information should form the basis of responses to complaints.
- * **Finality.** Those handling 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 guidelines will be provided to all parties to inform them of the system to be followed in handling incidents of alleged discrimination.

II. INFORMAL PROCEDURES

Individuals who believe that discrimination compromises their educational or work experience should feel free to discuss the problem with a faculty member, chair, dean, or supervisor. 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. If this process does not resolve the matter, or if the complainant prefers, he/she may pursue any of the avenues of resolution listed below.

A. Advising

One function of the Office of Affirmative Action is to hear and address all complaints concerning discrimination of any type. However, we recognize that some other offices may bring specific expertise to particular complaints. There are several offices on the Bloomington campus that have staff designated to assist individuals who believe that one or more people in the university have discriminated against them. These offices include: Student Advocates, Student Legal Services, Student Ethics & Anti-Harassment Programs (including the Gay, Lesbian & Bisexual, and Transgender Anti-Harassment Team, the Gender Incidents Team, the Religious Bias Incidents Team, and the Racial Incidents Team), Women's Affairs, Diversity, Equity and Multicultural Affairs, the Vice Provost for Faculty and Academic Affairs, International Services, Disability Services for Students and Veterans Support Services. People should feel free to choose whichever office they feel can best accommodate their needs.

If the complaining party seeks a preliminary informational and advising session with the Office of Affirmative Action, an opportunity for full discussion of the case shall be provided. The Affirmative Action Officer shall aid the complaining party in exploring all possible options for resolving the complaint as effectively as possible. The Affirmative Action Officer shall keep no record of the advising conversation other than an incident report containing only the names of the departments involved and the nature of the complaint as needed to maintain a record of the number and different types of reported incidents for statistical reports, for monitoring equal employment opportunity and affirmative action obligations, and for training and other proactive efforts. The Office of Affirmative Action shall make every effort to protect the privacy of the persons involved in any conversation about discrimination and may release information on an individual only with his or her permission or when required by law.

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. 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. The Affirmative Action Officer may serve as an alternative dispute resolution facilitator/mediator or suggest other parties to do so. By definition, informal resolutions do not include imposing sanctions, but they may involve mutually acceptable consequences. There are no time limits imposed here, but after 360 days from the alleged discriminatory act, there is no recourse to formal proceedings (outlined in III below).

As in advising, the Affirmative Action Officer shall take all steps necessary to protect the privacy of all parties. The Affirmative Action 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. The Affirmative Action Officer shall release information on an individual only with his or her permission or when required by law.

III. FORMAL PROCEDURES

When either party wishes to bypass an informal resolution, or when informal resolution fails and the complaining party chooses to pursue the matter formally, three steps will occur:

- A. The complaining party must provide a signed written complaint that states in some detail the basis for the complaint and the relief sought. 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. Respondents shall be informed of the details of the complaint and receive a copy of the written complaint as soon as possible.
- B. The Affirmative Action Officer shall then conduct a preliminary investigation to determine if there is an apparent basis for the complaint. This initial investigation may include talking with people other than the disputing parties, but the purpose of the investigation 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. The Affirmative Action Officer shall make a written record of all actions taken.
- C. If the Affirmative Action Officer determines that there is no valid basis for the complaint, he/she shall present the results of the investigation to the complaining and responding parties. The Affirmative Action Officer shall take no further action. Any documents gathered during the process shall remain in the Office of Affirmative Action and will be considered a university personnel record.
- D. If the Affirmative Action Officer determines that there is an apparent basis for the complaint, he/she shall notify the complaining and the responding parties and convene

an Affirmative Action Hearing Board drawn from the Affirmative Action Hearing Board Panel.

1. At the beginning of each academic year each of the following individuals or groups appoints three members to the Affirmative Action Hearing Board Panel: the Provost; the Bloomington Faculty Council; the Affirmative Action Officer; the Vice-President for Diversity, Equity and Multicultural Affairs; the Dean for Women's Affairs; the Dean of Students; The Dean of the University Graduate School, and the Associate Vice-President for Human Resource Services. The Affirmative Action Officer may request additional names for the panel, so that it has an adequate number of faculty, staff, and students (undergraduate and graduate). From this panel a Hearing Board is chosen with the following characteristics: The majority of the Hearing Board must be tenured faculty members. If a disputant is a student, one of the Board members will be a student; if a disputant is a staff member, one of the members will be a staff member.

2. The Hearing Board will be constructed according to these procedures:

- (A) Each disputing party will choose one member (In the event the parties' choices make it impossible to form a Hearing Board that meets these procedural requirements, the Affirmative Action Officer can direct them to make another selection.);
- (B) The two members selected will choose a third member to constitute a three-member Hearing Board meeting the above criteria;
- (C) In the event neither party initially chooses a tenured faculty member, then each party will choose an additional member of the Hearing Board from the list of available tenured faculty members. The four Hearing Board members will then select an additional tenured faculty member.
- (D) In case of a conflict of interest, the Affirmative Action Officer may arrange for another selection.
- (E) All members of the Hearing Board must be present for a hearing to take place. In emergencies, a replacement may be appointed in the same manner as the member being replaced.
- (F) The Office of Affirmative Action will provide technical assistance and training each year for the Affirmative Action Hearing Board Panel.

3. The appointed Hearing Board follows these procedures:

- (A) The Hearing Board sets a date for a hearing no sooner than 10 days and no later than 30 days after the respondent has received notice of the complaint.
- (B) The parties submit to the Hearing Board a list of witnesses and the Hearing Board notifies each witness of the date, time, and place of the hearing.
- (C) Each party may choose an advocate or representative to accompany him/her to the hearing.

(D) The hearing is private unless all parties agree to an open hearing. The Hearing Board keeps a complete record of the proceedings.

(E) All parties involved receive copies of all papers filed with the Hearing Board.

(F) The parties may state before the hearing which facts are/are not in dispute.

(G) The Hearing Board will question the parties and witnesses.

(H) All parties to the dispute may question evidence presented by the other parties, but this questioning will be carried out by the Hearing Board.

(I) The Hearing Board may request information it deems necessary and call witnesses not called by the parties.

(J) All parties may request specific information from the other parties if the Hearing Board deems that information relevant. The Hearing Board will treat as confidential all information received in the complaint process to the extent permitted by law. It expects the parties will be discreet and show respect for all.

(K) The Hearing Board must reach its decision strictly on the evidence it receives in the hearing.

(L) The Hearing Board makes its written recommendation, with appropriate reasons stated, to the Provost to whom the respondent reports, within 10 days after the hearing's termination. All parties receive copies of the recommendation at that time.

(M) The Provost will make his/her decision within 30 days based on the accumulated evidence.

(N) Files kept for a formal hearing contain the record produced by the Hearing Board and will be kept in the Office of Affirmative Action. When the case results in a written reprimand or a more severe sanction, the Provost will ensure that a copy of the sanction is placed in the appropriate personnel or student file. Either party has the right to place a statement in his/her personnel or student file or in the file kept by the Office of Affirmative Action.

IV. EMERGENCY

Provisional, emergency actions departing from these principles may be taken by a senior University officer with the advice of the University Counsel and must be followed as promptly as possible by steps providing respondents with the notice and opportunity to defend specified in Section III above.

V. RETALIATION

No one at the university may reprimand or discriminate against a person for having initiated in good faith an inquiry or complaint.

