

## Internal Governing Policies

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### #173 - Discrimination Complaint Procedures (Non-Title IX Sexual Harassment Complaints)

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**Approved:** September 29, 2020

**Monitor:** President

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#### STATEMENT OF PURPOSE

Eastern Illinois University provides equality of opportunity in education and employment for all students and employees. Discrimination is prohibited on the basis of race, color, religion, national origin, ancestry, age, sex, marital status, disability, sexual orientation, gender identity, veteran's status, and any other basis of discrimination precluded by federal and state laws.

Sexual harassment is a form of sex discrimination. Sexual harassment is unwelcome conduct of a sexual nature, which encompasses a wide range of conduct including sexual violence. It is the policy of Eastern Illinois University that sexual harassment of one member of the campus community by another will not be tolerated. Sexual harassment is prohibited under the Civil Rights Act of 1964 (Title VII), Illinois Human Rights Act, 775 ILCS 5 *et seq.*, Illinois Preventing Sexual Violence in Higher Education, 110 ILCS 155 *et seq.*, and Title IX of the Education Amendments of 1975.

The university's Title IX sexual harassment policy is found at [IGP#175](#); sexual harassment includes sexual misconduct, [IGP #175.1](#).

This Discrimination Complaint Procedure applies to discrimination complaints other than Title IX sexual harassment (procedures found at [IGP #175.2](#)).

Any member of the university community, who believes he or she has been discriminated against on the basis of race, color, religion, national origin, ancestry, age, sex, marital status, disability, sexual orientation, gender identity, veteran's status, and any other basis of discrimination precluded by federal and state laws EXCEPT for Title IX sexual harassment claims, may file a complaint with the university's:

Office of Civil Rights & Diversity

1011 Old Main

217-581-5020

[civil@eiu.edu](mailto:civil@eiu.edu)

Complaints for Title IX sexual harassment can be filed under IGP #175.2.

Students and employees may also file complaints of discrimination against third parties associated with university activities (e.g., vendors, student teaching supervisors, internship supervisors, volunteers and visitors).

No individual may retaliate against any university employee or student who seeks redress under this policy. Retaliatory action shall be regarded as a separate and distinct cause of complaint. Prohibited retaliatory acts include intimidation, threats, coercion, or discrimination against anyone who seeks redress or participates in the fact-finding investigation.

The confidentiality of information presented by all parties will be observed except in those instances in which it would interfere with the ability of the university to investigate the complainant's allegations and take necessary corrective actions.

Complaints filed against the President (as an individual) will be referred to the Chairperson of the Board of Trustees for investigation and review under the Board's discretion.

With respect to complaints filed against any Vice President, staff in the Office of Civil Rights and Diversity, or areas directly reporting to the President (such as athletics), the President shall substitute another Vice President in steps described in 4, 5, and 6 below. When appropriate, the President has discretion to use an external investigator.

The Office of Civil Rights & Diversity is responsible for conducting the investigation of a complaint and forwarding a confidential report to the appropriate Vice President. Upon reviewing this report and any recommendations made, the appropriate Vice President is responsible for determining if a violation of this policy occurred and any action that will be taken.

## **PROCEDURES**

All employees and students are encouraged to come forward with any concerns regarding discrimination.

It is the responsibility of faculty chairpersons, other administrators, and supervisors to inform the Office of Civil Rights & Diversity about any potential instances of discrimination. Failure to report could itself be a violation of this policy and/or university expectations.

In determining how a specific concern will be addressed, the university will consider the facts involved, the relevant law and the wishes of the complainant. It is sometimes appropriate to address concerns through informal discussions. In some instances it may not be necessary for the name of the person bringing forward the concern to be shared with others. The university's ability to respond fully may be limited if the complainant insists that his/her name or other identifiable information not be disclosed to the respondent (individual for whom the complainant alleges discriminated against them).

## **MEDIATION PROCESS**

Initially, the party seeking assistance will be asked to complete an intake form which will include a description of the allegations of discrimination. Both mediated resolutions and formal investigation procedures may be used to address complaints. With the consent of the parties involved, staff in the Office of Civil Rights & Diversity will arrange for information to be shared between the parties regarding applicable issues and appropriate remedies. Through this process, the parties may agree on a resolution, however, each party retains the right to accept or reject any proposed agreement.

## **FORMAL INVESTIGATION AND FACT FINDING PROCESS**

A complainant shall submit a complaint in writing to the Office of Civil Rights & Diversity stating the nature of the alleged discrimination. Complaints must be submitted within 300 days after the alleged discrimination has occurred in order to permit a prompt resolution. The Office of Civil Rights & Diversity retains discretion to address complaints older than 300 days in unusual circumstances, but in no event will review a matter that occurred three years or more from the date of the complaint.

In safety concerns, the Office of Civil Rights & Diversity can recommend immediate, temporary remedies while the investigation and fact-finding process is underway.

The Office of Civil Rights & Diversity will investigate complaints by neutral fact-finders in a timely, equitable manner. Both the complainant and the respondent will have the opportunity to supply evidence and identify witnesses.

The university applies the preponderance of the evidence standard.

Complainants and respondents are notified concurrently of the outcome of an investigation. Both the complainant and the respondent may appeal the findings to the university president.

The investigation of a complaint, including attempts at informal resolution, ordinarily will be completed within sixty (60) business days after receipt of a complaint. If the investigation cannot be completed within sixty (60) days, the complainant, and other parties as appropriate, will be notified as to the delay.

The following steps will be taken to resolve complaints that are filed with the Office of Civil Rights & Diversity:

1. An in-depth interview with the complainant will be conducted by the investigator(s) within the Office of Civil Rights & Diversity.
2. The investigator(s) will inform the respondent(s) and will interview the respondent(s) to ascertain his/her response to the complaint.
3. Where appropriate, the investigator(s) will discuss a potential resolution of the complaint with the complainant, the respondent, and/or both.
4. Further investigation may be conducted by the investigator(s), including interviewing witnesses, confirming information, and seeking additional information and/or documentation. In conducting the investigation, the investigator(s) shall have unrestricted access to all pertinent material, records, reports and documents in possession of any university personnel and shall be afforded the opportunity to interview all persons possessing relevant information. When the investigation is completed, a confidential report will be forwarded to the appropriate Vice President.
5. If the Vice President determines that further information is needed to make a decision, he/she will request the Office of Civil Rights & Diversity to gather additional information.
6. A written response, setting forth the Vice President's decision on the basis of the evidence gathered during the investigation, will be sent to the Office of Civil Rights & Diversity within twenty (20) business days. In the event the Director determines that further consideration

should be given to the complaint, the matter will be referred to the President for consultation before the Vice President's decision is implemented.

7. The Office of Civil Rights & Diversity will communicate the Vice President's decision to the complainant and respondent by letter or electronic communication within ten (10) business days.
8. If a current student or employee, either the complainant or the respondent may appeal the Vice President's decision to the President within fifteen (15) days after the date notice is received of the Vice President's decision. The President's decision is final.

If discrimination is found to have occurred, corrective actions and/or disciplinary actions will be initiated by the appropriate Vice President. The university will take steps to prevent further discrimination and to correct its effects on the complainant, as appropriate.

If disciplinary action is proposed as a result of a finding of discrimination, procedures required under relevant collective bargaining agreements, [Board of Trustees Regulations](#), or the [State Universities Civil Service Statute and Rules](#) will apply.