

Section: Employee/Labor Relations

Section Number: 4.5.2

Complaints/Grievances:

Subject: Discrimination/Harassment Grievance
Procedure

Date of Present Issue: 11/17/08

Date of Previous Issues:
10/84, 03/87, 09/89, 09/94, 04/95,
05/96

A. POLICY:

The University is an equal opportunity employer and educator and prohibits discrimination, including harassment, on the basis of race, color, national origin or ancestry, gender, age, disability, religion, height, weight, sexual preference, marital status, or veteran status. (See Section [1.5.1](#)).

In carrying out this policy, the University complies with all Federal and State laws and regulations prohibiting discrimination including:

Executive Order 11246, the Elliott-Larsen Civil Rights Act of 1976, Title VI of the Civil Rights Act of 1964, The Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, and the Pregnancy Discrimination Act of 1978, Title IX of the Education Amendments of 1972, Titles VII and VIII of the Public Health Service Act, Age Discrimination in Employment Act of 1967, Sections 503 and 504 of the Rehabilitation Act of 1973, Veteran's Assistance Act of 1972, and Title II of the Americans with Disabilities Act of 1990.

B. Sexual Harassment

The University is committed to a policy of non discrimination on the basis of gender. Discrimination because of gender includes sexual harassment which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

- i. Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or public services, education, or housing;
- ii. Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or public services, education, or housing; or
- iii. Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing environment.

The University is committed to the protection of the rights of all individuals and to the elimination of barriers that would prevent individuals from realizing their highest potential of human excellence. Sexual harassment is a particularly noxious form of discrimination that interferes with these goals and commitments, and is difficult to combat due to the intimidation and destruction of self esteem of its victims.

C. Grievance Officer

The Equal Employment Opportunity Officer/Affirmative Action Officer (EEO Officer) is the designated grievance officer for discrimination complaints. If any person believes that he or she has been subjected to discrimination, including harassment by unlawful and unacceptable expressions, acts, attitudes and/or

behaviors based on race, color, national origin or ancestry, gender, age, disability, religion, height, weight, sexual preference, marital status, or veteran status, he or she should contact Ms. Beverly White, EEO Officer, LSSU Administration Building, Sault Ste. Marie, Michigan 49783 (906-635-2697) within sixty (60) working days of the action of which the person complains.

D. Complaints Alleging Discrimination - General Provisions

1. The University encourages all individuals to report promptly instances of discrimination and discriminatory harassment. Once the University has been informed of such behavior it will take timely and appropriate steps to investigate the problem. At any step of the grievance process, time schedules as outlined in the process, may be extended by mutual agreement in writing.
2. Individuals may discuss with the EEO Officer concerns they may have regarding possible discrimination or harassment to learn what options are available.
3. **NONRETALIATION:** The University not only prohibits discrimination, including harassment, but also strictly prohibits any retaliation against an individual who, in good faith, has registered a complaint under this procedure. Any supervisor, agent or employee of the University who, after investigation, has been determined to have retaliated against any individual for using the complaint procedure in this policy will be subject to appropriate discipline up to and including immediate discharge. If an individual believes he or she has been retaliated against for exercising his or her rights under this policy, the individual should use this complaint procedure.
4. All matters discussed in this process will be kept as confidential as possible.
5. If an individual is dissatisfied with the University's investigation process or resolution, he or she may file complaints of illegal discrimination on the basis of gender (Title IX and Title VI) or disability (Section 504 and Title II of the ADA) with the Office for Civil Rights, U.S. Department of Education, Chicago, IL 60605. A Title IX, Title VI, Section 504, or Title II ADA complaint must be filed in writing with the Office for Civil Rights no later than 180 days after the occurrence of the possible discrimination.
6. Individuals have the right under the law to seek remedies from the Michigan Department of Civil Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights, U.S. Department of Education or by Court action at the same time a grievance is filed under the University's procedure, during or after the use of the grievance process, or without using the grievance process at all.

E. Process to Investigate/Resolve Complaints Alleging Discrimination

Step 1: INFORMAL COMPLAINT

Any individual with a discrimination or harassment complaint as outlined in Section C of this procedure, may contact the EEO Officer in person.

The EEO Officer will speak with the individual (complainant) and try to resolve the matter on an informal basis. At Step 1, all information will be kept confidential to the extent possible.

Step 2: FORMAL COMPLAINT

If the problem cannot be resolved at Step 1 within five (5) working days from the date of first contact with the EEO Officer, the complainant may submit a written complaint on a form provided by the EEO Officer (Form 1). The EEO Officer will help the complainant complete the form if the complainant requests.

Within five (5) working days of receipt of the written complaint, the EEO Officer will send a Notice of Complaint (Form 2), a copy of the complaint form, a response form (Form 3) and a copy of this procedure to the respondent. The respondent will submit the completed response (Form 3) within five (5) working days from the date the complaint is received by the respondent.

The EEO Officer will conduct an investigation except in cases in which the EEO Officer is complained against (in which case the President will appoint the Action EEO Officer to conduct the specific investigation.). The investigation should be completed within twenty (20) working days after receipt of the response (Form 3). If the complaint is against the University as the Employer, the EEO Officer will have thirty (30) days from receipt of the written complaint (Form 2) to investigate the matter.

Within ten (10) working days of completion of the investigation, the EEO Officer will issue to the complainant and to the respondent a written Determination (Form 4) stating whether the allegations of the complaint are true and any remedial action recommended.

At Step 2, information will be kept confidential to the extent possible.

Step 3: HEARING

If either the complainant or the respondent is dissatisfied with the EEO Officer's Determination, he or she may request that the matter be referred to the Hearing Panel for a hearing by submitting Form 5. The request for hearing must be submitted in writing to the EEO Officer within five (5) working days after receipt of the Determination.

The President will appoint a permanent Hearing Panel composed of three members including, if possible, at least one female and one minority member. The Vice President for Finance will be the chairperson and will conduct the hearing except if the Vice President of Finance is complained against in which case the President shall appoint a substitute chairperson for purposes of the particular hearing. The President may also appoint acting members of the Hearing Panel when circumstances warrant. Such members will have full rights as members of the Hearing Panel for purposes of conducting a specific hearing.

The EEO Officer will send a Notice of Hearing (Form 6) and a copy of the Request for Hearing to the complainant, respondent (if any), and Hearing Panel, scheduling the hearing within fifteen (15) working days, unless the Panel Chairperson provides otherwise and so notifies those involved.

At the hearing the complainant and respondent will be allowed to give their own testimony, present the testimony of witnesses, documentary evidence or other evidence relevant to the proceedings and cross examine the other party's witnesses. The complainant and respondent may have an attorney or other advisor present. The EEO Officer will present the findings of the investigation conducted at Step 2 and may present witnesses, if appropriate. To ensure the privacy of those involved, witnesses (other than the complainant and respondent) will be allowed in the hearing room only during their testimony. At the Chairperson's discretion, the hearing may be recorded.

Within fifteen (15) working days after completion of the hearing, the Chairperson will issue the Decision (Form 7) and recommended order of the Hearing Panel. The Decision will be mailed to the complainant and respondent with a copy to the EEO Officer. Implementation of the recommended action will occur in a manner consistent with the University Board policies concerning specific recommended action(s).

Step 4: APPEAL

The decision of the Hearing Panel will be final and binding. If grievants wish to pursue the matter further, they may file with the outside agencies listed in Section D. 5. of this procedure.

Section 5.02. of the by-laws of the Board of Trustees, approved July 24, 1989, will not be invoked for grievances submitted for settlement under this procedure.

Approved by the Board of Regents: February 2, 1990.

Revisions approved by the Board of Trustees: May 3, 1996; November 7, 2008

[Form #1: Complaint of Discrimination](#)

[Form #2: Notice of Complaint of Discrimination](#)

[Form #3: Response to Complaint of Discrimination](#)

[Form #4: Equal Employment Opportunity Officer Determination](#)

[Form #5: Request for Hearing Regarding Complaint of Discrimination](#)

[Form #6: Notice of Hearing](#)

[Form #7: Decision of Hearing Panel Regarding Complaint of Discrimination](#)