

Interim Complaint Procedures - Northern Arizona University Equity and Access Office (EAO) (August 14, 2020)

I. Determination of Applicable Procedures

Formal complaints of sexual harassment will be reviewed by the Title IX (TIX) Coordinator and EAO to determine whether they are appropriately addressed by these procedures or if they are appropriately addressed by the university Sexual Misconduct Policy and related procedures. EAO may use these procedures to address claims dismissed from that policy and/or which are otherwise violations of the Nondiscrimination and Anti-harassment Policy (the “Policy”). For example, complaints of non-TIX sexual harassment.

II. Other Discrimination Reports

Formal complaints of discrimination based on other protected categories including race, color, religion, sex (except as described above), national origin, age, disability, veteran status, sexual orientation, gender identity and expression, or genetic information will be addressed through these procedures, as will alleged violations of the Consensual Romantic or Sexual Relationships Policy.

III. Contact by EAO

Upon receipt of a report of possible discrimination or a formal complaint, EAO will reach out to the individual(s) reporting or impacted by the circumstances to inform them of appropriate support resources and options for pursuing complaints under the Nondiscrimination and Anti-Harassment Policy (formerly known as the Safe Working and Learning Environment Policy).

IV. Informal Complaints

Individuals may request an informal resolution to a concern under the Policy. An informal complaint need not be in writing. However, it is recommended that the person to whom the complaint is reported document the complaint by taking notes and clarifying them as necessary with the reporting party. All reports and responses to possible violations of the Policy should be made in consultation with the appropriate supervisors and EAO. If a mutually acceptable solution cannot be reached informally, then the complainant may still file a complaint through the formal process. If the complainant’s intent for the matter to be handled as a formal complaint is unclear, then EAO will consult with the individual to clarify their wishes. EAO may have a duty to act on certain information provided regarding possible discrimination and harassment and may therefore be unable, in some situations, to honor a request that no action be taken.

V. Formal Complaints

A formal complaint shall be submitted to EAO in writing, be dated and signed or verified by the complainant, contain a description of the alleged policy violation, and the identity of the person alleged to have violated the Policy. The complainant shall provide, to the best of their recollection, the date(s), time(s), and location(s) of the incident(s). Forms to assist in the reporting process are available in the

EAO and on the EAO website. If EAO determines that the complaint is covered by the Policy, then a formal complaint will be initiated and an investigator assigned to the matter. If it is determined that EAO will not handle a specific matter due to actual or perceived conflict of interest or workload matters, then an investigator outside of EAO may be assigned.

A. Notice

The investigator will notify the appropriate level of the respondent's chain of command and then provide notice to the respondent. Notice will include the basis for the allegations, the right to provide testimony, documentation, and witnesses relevant to the matters under investigation, and inform them about the prohibition against retaliation. EAO will provide notice to the respondent in a timely manner, typically within five (5) business days of receiving the complaint.

B. Interim Measures

EAO may recommend the chain of command or other appropriate office or individual put in place interim measures during the investigation as appropriate. These measures are designed to address the well-being of all parties during any complaint review. EAO will consult with the Human Resources office, the Office of the Dean of Students, the Title IX Coordinator and the supervisory chain of command as appropriate in identifying and implementing interim measures.

C. Investigation

The assigned investigator will determine the most appropriate investigative plan and gather and review relevant and available witness testimony, documentation, and other relevant evidence. A respondent will be provided an opportunity to respond to the substantive allegations during the investigative process and before any determinations are made. The investigator will determine if, based on the preponderance of evidence standard, the evidence supports a finding that the Policy was violated and communicate the finding to the relevant chain of command and to the parties. A finding of "cause" means that the preponderance of evidence supported a conclusion that the Policy was violated. If an investigation reveals concerns that do not rise to the level of a Policy violation, then EAO may provide recommendations to prevent future concerns. The investigator may also make recommendations if it is determined that the complaint was not filed in good faith or that false or misleading testimony was intentionally provided to the investigator.

D. Investigative Report

With a formal complaint, the investigator will prepare a written report for the chain of command that summarizes the information reviewed, determination made, and any related recommendations. The report is not shared with the parties or witnesses. The investigation will be completed in a timely manner, typically within 90 days of notice to the respondent. If that timeframe is not met, then EAO will provide written notice to the Chief Human Resources Officer and the parties of the anticipated completion date. EAO may also provide the written report to other offices with a need-to-know in order to assist or advise on resolution, including Human Resources, the Office of the Dean of Students, the Vice Provost for Academic Personnel, or the General Counsel.

E. Confidentiality

EAO is an office of record. Therefore, confidentiality cannot be assured. However, EAO strives to maintain privacy insofar as it does not interfere with the university's obligation to investigate and address the allegations of misconduct or if disclosure is required by law.

VI. Appeal

There is no appeal of the EAO finding. Should the chain of command institute discipline or other personnel action as a result of the complaint, the individual will have all grievance rights provided under the policy(ies) applicable to that individual's position in the university.

VII. Filings with State and Federal Agencies

The investigation of a complaint under these procedures is not affected by the filing of a discrimination complaint with a state or federal enforcement agency, such as the Equal Employment Opportunity Commission. Timeframes for external filings are not tolled by the filing of an internal complaint under the Policy.