


IU Northwest Office of Affirmative Action & Employment Practices

Complaint Procedure Guidelines: *Discrimination and Harassment* July 2013

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Complaint Procedure Guidelines: Discrimination and Harassment¹

Introduction

Indiana University Northwest prohibits discrimination and harassment based on characteristics as age (40 or older), disability, ethnicity, sex (including pregnancy, sexual harassment and sexual violence), marital status, national origin, race, color, religion, sexual orientation, gender, gender identity, or veteran status. The Office of Affirmative Action and Employment Practices (OAA/EP) works to ensure compliance with federal, state and university equal employment opportunity and affirmative action policies and requirements.

Basic Policy and Approach

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 OAA/EP should allow for the consistent and timely processing of all complaints and ensure that the OAA/EP meets the university's legal obligations and its obligation to provide appropriate conditions of work and learning for faculty, students and staff.
- Allegations of sexual harassment/sexual violence, or potential liability to the University will be promptly investigated ([Sexual Harassment link](#)).

Procedures used by the OAA/EP 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.

¹ A copy of these guidelines are accessible to all parties via the OAA/EP website (www.iun.edu/affirmative-action).

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- **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.** Complete and accurate information should form the basis of responses to complaints.
- **Finality.** Communications that provide a sense of completion and finality should be communicated to the appropriate individuals.

Role of the Affirmative Action and Employment Practices Office

The OAA/EP has the responsibility for investigating all complaints of harassment and discrimination. When complaints involve students, the Vice Chancellor for Student Affairs and the Director of AA/ EP shall consult and coordinate their respective activities. The Office of the Executive Vice Chancellor Academic Affairs shall be consulted if the complaint involves faculty, deans, chairs, and/or is likely to involve issues of academic freedom, academic integrity, or other issues that may involve an academic matter. The Human Resources Administration will be consulted when the complaint involves non-faculty employment-related issues. The Office of Diversity Programming and Multi-cultural Affairs shall be consulted regarding the resolution of campus-related diversity issues.

Notice of the Complaint

The OAA/EP has established a three-tier approach to defining complaints:

- 1) ***Advising/Consultation/Referral*** – resolving the complaint which could include verbal conversations between the complainant and the respondent, as appropriate.

OAA/EP will consult, make an assessment, and intervene as appropriate, which may include facilitated discussions. No notice of complaint will be issued.

OAA/EP may determine that the complaint does not involve discrimination and should be referred to another University office for appropriate attention.

- 2) ***Mediation /Alternative Dispute Resolution*** - which is an intervention to work with both the complainant and the respondent to help them reach a mutually agreed upon resolution.

OAA/EP will assess the situation to determine whether mediation is appropriate. If appropriate a trained mediator will be assigned to mediate the issues. The Complainant and the Respondent must agree to mediation or either may refuse mediation or, once commenced, end mediation at any time.

- 3) ***Formal Investigation*** – includes a comprehensive investigative approach.

OAA/EP will make a preliminary assessment that the issues raised warrant a formal investigation and will provide notification to the relevant parties and Decisional Authority, as appropriate. If

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the OAA/EP determines a need for immediate interim action, e.g. removal, reassignment, administrative leave, or suspension, such actions will be administered by the Decisional Authority. OAA/EP will send notification to the Respondent and other parties as appropriate.

Informal Procedures²

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 that the person consulted 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.

Advising/Consultation/Referral

One function of the OAA/EP 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 IU Northwest campus that have staff designated to assist individuals who believe that one or more persons in the university have discriminated against them. These offices include: Diversity Programming, Office of Academic Affairs, Human Resources, and Vice Chancellor of Student Affairs. People should feel free to choose whichever office they feel can best accommodate their needs. OAA/EP may determine that the complaint does not involve discrimination and should be referred to another University office for appropriate attention.

If the complaining party seeks a preliminary informational and advising session with the OAA/EP, an opportunity for full discussion of the case shall be provided. The OAA/EP shall aid the complaining party in exploring all possible options for resolving the complaint as effectively as possible. The OAA/EP shall keep no record of the advising conversation other than a record 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 pro-active efforts. The OAA/EP shall make every effort to protect the privacy of the persons involved in any conversation about discrimination.

Mediation /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. Mediation 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 Director of AA/ EP will recruit a mediator for the involved parties. By definition, informal resolutions do

²The exception is a complaint of sexual violence or sexual harassment.

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not include imposing sanctions, but they may involve mutually acceptable consequences. There are no time limits imposed here, but after 300 days from the alleged discriminatory act, there is no recourse to formal proceedings (outlined below).

As in advising, the OAA/EP shall take all steps necessary to protect the privacy of all parties. The OAA/EP shall keep no record of the alternative dispute resolution/mediation 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 pro-active efforts. The OAA/EP shall release information on an individual only with his or her permission or when required by law.

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:

- The complaining party must provide a signed written complaint that states in detail the basis for the complaint and the relief sought. A complaining party should file promptly – preferably within six months of the alleged discriminatory act but in no event later than 300 days of the alleged discriminatory act. Respondents shall be informed of the details of the complaint as soon as possible.
- The OAA/EP shall conduct a preliminary inquiry to determine if there is an apparent basis of the complaint. The initial inquiry may include talking with people other than the disputing parties, but the purpose of the inquiry 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 OAA/EP shall make a written record of all actions taken.
- If the OAA/EP determines that there is no valid basis for the complaint, he/she shall present the results of the initial inquiry to the complaining and responding parties and management officials as appropriate. The OAA/EP shall take no further action. Any documents gathered during the process shall remain in the OAA/EP and will be considered university personnel records.
- If the OAA/EP determines that there is an apparent basis for the complaint, he/she will conduct a thorough investigation and consult with University Counsel if warranted.

Emergency

Provisional, emergency actions departing from these principles may be taken by a senior University office with the advice of University Counsel and must be followed as promptly as possible by steps providing respondents with the notice and opportunity to respond to any charges.

Retaliation

No one at the university may reprimand or discriminate against a person for having initiated in good faith an inquiry or complaint. Retaliation allegations are treated as a separate basis for filing a new complaint.

**IU Northwest – Affirmative Action and Employment Practices (OAA/EP)
Guidelines for Complaint Investigation****Complaint Intake**

When a student or employee notifies the OAA/EP of a complaint, the office will conduct a personal interview either in person or over the phone with the complainant. The purpose of the interview will be to gain a clear understanding of the complaint and circumstance surrounding it. The OAA/EP will ask questions designed to assist the complainant in thinking through exactly what happened, when and where it took place, who was involved, how often it occurred and which individuals may have witnessed the occurrence(s).

The OAA/EP will also determine whether the complainant has confronted the individual with whom he or she is having a conflict and whether the complainant has complained to or sought the assistance from any university official, any university office or any external agency. The OAA/EP will request the complainant to complete the official complaint form and provide it to the office as soon as possible.

Determination of Jurisdiction

The OAA/EP Director reviews complaints by employees and students regarding discrimination which is prohibited by federal, state, and local laws as well as university policy. The OAA/EP Director will ask questions designed to determine why the complainant feels that he or she has experienced discrimination and on what basis. The complainant may cite facts and circumstances relative to him/herself and/or other students or employees, the classroom environment or the workplace in general. This information will be used to determine whether the complaint involves discrimination and should be handled by the OAA/EP Director.

If the complainant presents no evidence or reasonable belief that his or her race, gender, age, disability, etc. is a basis in the complaint but the OAA/EP Director feels the complaint warrants university attention, the OAA/EP Director will refer the complainant to the appropriate office or university official. The referring office will be requested to keep the OAA/EP informed of any assistance or resolution provided. This information will be important for determining and ensuring that the complainant did receive assistance from the university.

Requested Relief

If the OAA/EP Director believes the complaint is within jurisdiction of the OAA/EP and that the complainant has a legitimate concern (based on the facts as the complainant has related them), the

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OAA/EP Director should determine what relief the complainant is seeking in response to the complaint. Some complainants may want advice about approaching the respondent or may want simply to make the OAA/EP Director aware of a problem. The complainant may or may not want the OAA/EP to investigate the complaint; however, *if the complaint involves alleged sexual harassment / sexual violence the OAA/EP must take responsive action to avoid potential liability for the university.* Regardless of the relief being sought, knowing what the complainant wants will be important to any future negotiations.

At this point, the complainant will want to know how (or whether) the OAA/EP Director can assist him or her in obtaining the relief requested. The OAA/EP Director may explain that the OAA/EP can conduct an investigation to see if discrimination was involved and can make recommendations to the appropriate department/administrator to resolve the complaint. The OAA/EP Director may also make available training programs, educate persons in the departments regarding the law and university policy, make recommendations regarding departmental procedures and monitor activity in the department. However, the OAA/EP does not have authority to fire, expel or otherwise discipline anyone for his/her behavior. Authority to fire, expel or otherwise discipline anyone lies within the department, the Vice Chancellors for Academic Affairs, Student Affairs, Fiscal Affairs, Technology and the Chancellor's Office. The OAA/EP Director should make sure that the complainant understands what the OAA/EP can and cannot do.

Confidentiality

When an individual files a complaint with the OAA/EP the complaint is maintained as confidential. The only persons who will become aware that the individual has filed a complaint will be those who are necessarily involved in any investigation or resolution procedure. Therefore, *the OAA/EP Director cannot guarantee complete confidentiality.*

A complainant may file with the OAA/EP anonymously, but this limits the assistance the OAA/EP Director can provide to the complainant and he or she should be informed of this fact. However, if a sexual harassment/sexual violence complaint is filed anonymously, the OAA/EP Director is obligated to do whatever can be done in response to the complaint to let the alleged offender(s) know what types of behavior constitute sexual harassment/sexual violence and are unlawful. This may involve conducting sexual harassment/sexual violence workshops in the department and/or distributing materials.

Prohibition against Retaliation

When the OAA/EP Director takes action in response to a complaint (informing the respondent of the charge, investigating, interviewing, negotiating, etc.), the complainant, the respondent and other appropriate persons will be informed that retaliating against the complainant for filing a complaint or otherwise opposing discriminatory practices is unlawful. Subsequent retaliation will give the complainant a new and separate basis for filing another complaint.

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Time Limit for Filing a Complaint

The OAA/EP encourages prompt reporting of allegations and complaints of discrimination, harassment and retaliation. Prompt reporting is beneficial to ensuring an effective investigation.

The office has established a reasonable timeframe for students, faculty and staff to file a complaint that is consistent with the Equal Employment Opportunity Commission (EEOC) which is 300 calendar days from the day the discrimination or harassment took place. Job applicants have 45 calendar days from the day the discrimination or harassment took place. Also, if more than one discriminatory event took place, the deadline will usually apply to each event. For example:

Let's say you were demoted and then fired a year later. You believe the Supervisor based their decision to demote and fire you on your race, and you file a charge the day after your discharge. In this situation, only your allegation of discriminatory discharge is timely. Specifically, you must have filed a charge challenging the demotion within 300 calendar days from the day you were demoted. If you didn't, the Office would only investigate your discharge. However, there is one exception to this general rule and that is if you are alleging ongoing harassment.

If you plan to file a charge alleging a violation of the Equal Pay Act, the deadline for filing a charge is 180 days after each discriminatory pay check is received (Lilly Ledbetter Fair Pay Act). The Ledbetter law applies to all claims of pay discrimination – whether they are based on sex, race, color, religion, natural origin, age, or disability.

Time limits for filing a charge with the office generally will not be extended while you attempt to resolve a dispute through another forum such as an internal grievance procedure, a union grievance, arbitration or mediation before filing a charge with the office. Therefore, all such allegations or complaints should be submitted to the office as soon as possible after the offending conduct occurs, but no more than 300 days after the most recent act of the alleged conduct. In cases of reports that are brought after 300 days, the office can at its discretion decide whether or not to act on such complaints based on the nature and severity of the complaint as well as the amount of time that has passed since the alleged conduct occurred.

Appeals

Appeals of the OAA/EP and/or the Deciding Authority's decision may be made directly to the Chancellor through the OAA/EP within fourteen (14) calendar days of the decision notice. All appeals to the Chancellor (or his/her designee) must be filed with the OAA/EP who shall date stamp the appeal document and promptly submit it to the Chancellor and all concerned parties. The Chancellor or designee will render a decision on an appeal within thirty (30) calendar days unless unusual circumstances cause delay, at which time the Chancellor or designee will advise all concerned parties.

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Upon an appeal to the Chancellor, the findings of the Decisional Authority will be overturned only if the Chancellor determines that there was no circumstance under which a reasonable person could ascertain the same factual conclusion based on the evidence presented. The sanctions imposed in a case will not be modified unless the Chancellor determines that they are materially disproportionate to the severity of the violation or not supported by the factual conclusions of the Decisional Authority.

The Chancellor's or designee's decision is non-appealable and not subject to further review.

Grievance Procedures

Individuals may file a complaint /grievance in accordance with the policies listed below as appropriate. The OAA/EP review and/or investigation of discrimination complaints is a separate and independent process as detailed in this document.

1. Academic Appointees shall have rights provided by the rules governing the Faculty Board of Review in accordance to the Academic Handbook.
2. Students shall have student grievance procedure rights as described in the Indiana University Code of Student Rights, Responsibility and Conduct.
3. Support Staff represented by Communication Workers of America (CWA) Local 4730, shall have grievance and appeal rights as described in the Policies for Support Staff Manual.
4. Professional Staff and Support/Service Staff not covered by a Union should refer to the Policy Manual for Problem or Grievance Resolution.

Fact Finding Investigation

Initiation

The OAA/EP Director initiates an investigation to seek the validity of any allegations which are within the jurisdiction of the OAA/EP, unless the complaint specifically does not want an investigation. However, if the allegations involve a claim of sexual harassment/sexual violence, or potential liability to the University, the OAA/EP Director must take action in response to the complainant, regardless of the complainant's wishes.

Scope, Goals and Direction of Investigation

Throughout the investigation and complainant process, the OAA/EP Director acts as a neutral and objective fact finder. The purpose of the investigation is to gather enough evidence for the OAA/EP Director to make an informed decision regarding the merits of the complaint.

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An investigation should begin with a clear understanding of the complaint and a chronology of the events involved which can be gained from the complainant. Depending on the information that the complainant provides, the OAA/EP Director may need to review personnel/student files or other documentation, consult with other university offices for information, speak with witnesses, university officials or others with information, or consult university policies and procedures. The OAA/EP Director should try to double check and verify all information as the complaint progresses.

At an appropriate point in the fact gathering process, the OAA/EP Director should notify the individual(s) against whom the complaint has been filed (respondent) and obtain his/her/their account of the events involved in the complaint. As a seeker of truth, the OAA/EP Director should approach all individuals, including the respondent(s) in a respectful and non-threatening fashion.

All information gathered through the investigation should be documented and included in the complaint file.

Summary of Results

When all the information has been gathered, the OAA/EP Director should analyze and summarize the information. The OAA/EP Director should be able, at this point, to make a judgment regarding what sequence of events actually occurred based on whether the evidence gathered tends to support the account of the complainant or the respondent. Based on the determination of what occurred, the OAA/EP Director should be able to determine the likelihood that discrimination was involved, i.e. whether it is likely that the allegations have merit.

If it is found that the allegations are likely meritorious, the OAA/EP Director should develop recommendations for resolving the complaint which addresses the cessation of the discriminatory practice, actions to prevent their reoccurrence and avoid potential legal liability for the university.

Report of Findings and Recommendations

Report Guidelines

- 1) Complaint
 - a. Complainant – State the name, title, classification and department of the complainant.
 - b. Basis of Complaint – State the discriminatory basis and laws or policies involved, i.e. discrimination based on race, alleged violation of Title VI.
 - c. Jurisdiction – Explain why the OAA/EP Director has jurisdiction over this complaint.
 - d. Short Statement of Complaint.
 - e. Requested Relief – State what relief that complainant is requesting.

- 2) Fact Finding Investigation

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- a. Scope of Investigation – Summarize and describe the various investigative measures that were taken to investigate the complaint, i.e. interviewing witnesses, examining files, etc.
 - b. Goals and Direction of Investigation – Indicate the initial questions that the investigation was designed to answer, how the investigation progressed and what additional questions developed.
 - c. Results of Investigation – Summarize the information that was gathered and indicate what account of events was supported by the evidence. If applicable, indicate where evidence is contradicting or where a determination of what occurred cannot be made.
- 3) Evaluation of the Merits of the Complaint

Based on the weight of the evidence and the OAA/EP Director’s understanding of the applicable laws and/or policies involved, the OAA/EP Director makes a determination that discrimination was or was not involved in the complaint. Specific behaviors or procedures that put the university at risk, if any, should be indicated. An evaluation of the extent of damage done to the complainant, if any, as a result of the discrimination should also be made.

4) Recommendations for University Action

Based on the OAA/EP Director’s analysis of all of the information, the OAA/EP Director may recommend action that the university can and should take to resolve the complaint, if any. The OAA/EP Director also may make recommendations that would be helpful to safeguard the university from future liability, i.e. modifying departmental procedures to ensure nondiscrimination in hiring, conducting sexual harassment/sexual violence workshops within the department, etc.

5) All Supporting Documentation

NOTE: The OAA/EP Director may consult with University Counsel at any stage of the formal investigation.

Resolution

Investigation Inconclusive or Complaint Likely Not Meritorious

If an investigation reveals that a complaint likely does not have merit or if the facts or merit cannot be determined, the OAA/EP Director should advise the complainant, respondent, and any other appropriate official. The OAA/EP Director should offer to have a final meeting with any of the parties to answer any questions and to inform the complainant of any alternative resolution procedures available, including filing a formal charge with an external agency or the campus grievance process. If applicable, at this point, the OAA/EP Director will consider the complainant’s case closed.

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Complaint Likely Meritorious

The goal in cases that appear to be meritorious should be to resolve the complaint internally and avoid having the complainant file a complaint with an external agency.

The official may decide to follow the recommendation(s) of the OAA/EP Director, take another course of action to resolve the complaint, or refuse to take any action if the official does not believe the discrimination occurred. If the official chooses a course of action that the OAA/EP Director does not feel is an appropriate response to the complaint, the OAA/EP Director should try to explain why the response is inappropriate and suggest an appropriate response. The OAA/EP Director should remain cognizant that the OAA/EP does not have the authority to require any university official or department to take action. What the OAA/EP Director should offer is his/her best advice based upon expertise in the field of equal opportunity.

NOTE: These operational procedures do not create a contract or any legal rights. They are subject to change without notice.

APPENDIX 1

**Indiana University Northwest – Office of Affirmative Action and Employment Practices
(OAA/EP) - Outline for Complaint Investigation**

INTAKE PROCESS

1) PERSONAL INTERVIEW

- a. Gain clear understanding of complaint and complaint circumstances.
- b. Acquire insight as to whether complainant has:
 - Confronted the respondent
 - Complained to or sought assistance from another university official or outside agency.
- c. Completed an official complaint form.

2) DETERMINE JURISDICTION

- a. Assess why the complainant feels he/she has experienced discrimination.
- b. Determine what basis of discrimination is being alleged.
- c. Determine what facts and circumstances contribute to the basis of the complaint.

3) INFORMAL

- a. Determine if Informal Procedure may be appropriate
 - Advising/Consultation
 - Mediation/Alternative Dispute Resolution (see Appendix 3)

JURISDICTION UNCONFIRMED

4) DETERMINE APPROPRIATE RESOURCE

- a. If no evidence or reasonable belief is present to uphold discrimination, refer complainant to an appropriate office or official for other remedies.
- b. Request that the referred office inform the OAA/EP of any assistance or resolution the referred office or official provides.
- c. Document action taken by referred office.
- d. Close case.

JURISDICTION CONFIRMED

5) DETERMINE COMPLAINANT RELIEF

- a. Assess what remedy(ies) is being sought by the complainant. See if the complainant:
 - Wants advice about approaching the respondent
 - Simply wants to make the OAA/EP aware of the problem
 - Does or does not want the OAA/EP to investigate.

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- b. Advise about OAA/EP obligation to take action on complaints alleging sexual harassment/violence and other matters that the University has some liability.
- 6) EXPLAIN OAA/EP CAPACITY TO INVESTIGATE
 - a. Inform complainant of OAA/EP investigation scope and ability to make recommendations only to the appropriate department or administrator.
 - b. Inform complainant of what the OAA/EP can make available:
 - Training programs based upon certain issues
 - Education programs regarding law and university policy
 - Recommendations regarding department procedures
 - Sexual harassment workshops
 - Monitoring activities for department or administration usage.
 - c. Inform the complainant that the OAA/EP does not have authority to fire, expel, or otherwise discipline anyone for alleged behavior.
 - d. Inform the complainant that anonymous filing limits the assistance the OAA/EP can provide.
- 7) ADDRESS CONFIDENTIALITY
 - a. Assure the complainant that the OAA/EP maintains all complaints as confidential, to the extent possible.
 - b. Inform the complainant that certain persons becoming aware that a complaint has been filed will be:
 - Those necessarily involved in the investigation
 - Those necessarily involved in the resolution process.
 - c. Inform the complainant that OAA/EP only guarantees confidentiality when there is no investigation or resolution process.
- 8) PROTECT AGAINST RETALIATION
 - a. Inform the complainant, respondent and appropriate persons that retaliation against the complainant is unlawful.
 - b. Inform the complainant that retaliation grants a new and separate basis for filing another complaint.

INVESTIGATION PROCESS

- 9) PREPARE FOR INVESTIGATION
 - a. Look to validate allegations under OAA/EP jurisdiction.
 - b. If sexual harassment is involved, strategize action regardless of complainant's wishes.
 - c. Position the OAA/EP as a neutral fact finder.
 - d. Secure a clear understanding of the complaint and chronology of events involved.

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10) INITIATE INVESTIGATION

- a. Based upon complainant and respondent information, review items such as:
 - Personnel files
 - Written documents
 - Information from other university offices
 - Witness testimony
 - University official testimony
 - University policy and procedures
 - Others with information.
- b. Document and analyze information collected.
- c. Place all investigation information into the case file.

11) SUMMARIZE INVESTIGATION RESULTS

- a. Make a judgment as to whether the sequence of events that occurred supports the account of the complainant or the respondent.
- b. Determine whether discrimination was meritorious or not.

NON-MERITORIOUS

12) ADVISE ALL PARTIES OF COMPLAINT STATUS

- a. Offer a final meeting with any party to answer any questions.
- b. Inform the complainant of alternative resolution procedures available such as:
 - Mediation
 - Formal charges with an external agency.
 - Campus grievance procedure.
- c. Close case.

MERITORIOUS

13) PREPARE A SUMMARY OF RESULTS AND RECOMMENDATIONS

- a. Follow established reporting guidelines which include:
 - Complaint information
 - Investigation facts
 - Merit evaluation
 - Recommendations for action
 - Supporting documents.
- b. Remember the goal is to resolve the complaint internally.

14) REPORT RESULTS AND RECOMMENDATIONS

- a. Inform the Deciding Authority (DA) of his/her option to:
 - Follow the recommendations of the OAA/EP

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- Take another course of action
- Take no action at all.
- b. Debrief the case with the DA and other officials as warranted.
- c. Indicate potential university liability.
- d. Consult with University Counsel as appropriate.

APPEALS PROCESS

15) APPEALS DIRECTLY TO THE CHANCELLOR

- a. Must be made within (14) calendar days of the decision notice.
- b. Must be filed through OAA/EP.
- c. The Chancellor or his/her designee will render a decision within (30) calendar days barring unusual circumstances causing delay.
- d. The findings of the Decisional Authority will be overturned only if the Chancellor determines that there was no circumstance under which a reasonable person could ascertain the factual conclusion based on the evidence presented. The sanctions imposed will not be modified unless the Chancellor determines that they are materially disproportionate to the severity of the violation or not supported by the factual conclusions of the Decisional Authority.
- e. Chancellor's decision is non-appealable.

GRIEVANCE PROCEDURES*

(16) INDIVIDUALS MAY FILE A COMPLAINT/GRIEVANCE IN ACCORDANCE WITH THE POLICIES BELOW:

- a. Faculty Board of Review for academic appointees.
- b. Code of Student Conduct for students.
- c. Policies for Support Staff represented by Communication Workers of America (CWA), Local 4730.
- d. Policy Manual for Professional Staff and Support/Service Staff not covered by a Union.

***The OAA/EP review and/or investigation of discrimination complaints is a separate and independent process as detailed in this document.**

APPENDIX 2**Indiana University Northwest – Office of Affirmative Action and Employment Practices
(OAA/EP) – Mediation/Alternative Dispute Resolution (ADR)****Purpose**

The Mediation/ ADR program is a collaboration between the IU Northwest Office of Affirmative Action and Employment Practices; Office of Diversity Programming and Multi-Cultural Affairs; Office of Human Resources and the IUPUI Human Resources Administration.

The Mediation/ ADR program implements a process for resolving disputes and complaints other than through the formal Affirmative Action/Equal Employment Opportunity (AA/EEO) investigative complaint process. The program is designed to use mediation, facilitated conflict resolution and problem solving as an alternative to the more lengthy processes of discrimination complaints and litigation. The goal of ADR 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. The decision to mediate is completely voluntary.

Individuals who file a discrimination complaint may elect to have the complaint held in suspense in order to provide the complaining party and the responding party the opportunity to resolve the dispute using the ADR/Mediation program. ADR 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. By definition, informal resolutions do not include imposing sanctions, but they may involve mutually acceptable consequences.

Any employee, manager or administrator may utilize the Mediation/ ADR process to resolve workplace disputes. The OAA/EP Director may serve as an alternative dispute resolution facilitator/mediator or recommend other parties. A major goal of the program is to develop in-house mediators whose purpose extends beyond meeting specific AA/EEO needs and requirements but who are simply good communicators and facilitators. Mediators will be selected from the approved list of trained mediators maintained by the OAA/EP Director.

Advantages

A benefit is that the parties have nothing to lose by participating in mediation. All parties sign a confidentiality agreement. Information disclosed during mediation will not be revealed to anyone. If the parties do not reach an agreement at the mediation, the complaint will be investigated like any other.

Mediation can resolve all issues important to both parties not just the underlying legal dispute. Mediation may allow the parties to preserve or repair the employment relationship. Parties have an equal say in the process and decide the settlement/agreement terms, not the mediator. With investigation the underlying problems may remain, affecting everyone in the work unit.

Mediation takes less than three months on average to resolve a complaint while it can take six months or longer for a complaint to be investigated.

Mediator requirements

Employees will serve as mediators for the program. These individuals must successfully complete the required Mediation Training and be selected by the Mediation Panel to serve as mediators. This list of mediators will be maintained by the OAA/EP. Mediators will be thoroughly trained to maintain neutrality and impartial facilitators of settlement agreements. The Mediation Program Panel will provide oversight to the program and mediators to ensure compliance with the ADR guidelines. The Mediation Program Panel for this program is comprised of the following individuals:

Ida Gillis, Director, Office of Affirmative Action & Employment Practices
Carolyn Hartley, Director, Human Resources
Dorothy Ige, Professor, Department of Communications

Panel Consultant:
Dan Griffith, Director, IUPUI Office for Intergroup Dialogue and Civil Community

Employees wishing to serve as mediators must have the approval of their immediate supervisor. Mediators will generally not mediate disputes within their own department/unit.

Role of the Mediator

The mediator has no authority to impose a resolution on the parties. Instead, the mediator helps the parties to jointly explore and reconcile their differences. Mediation provides a neutral confidential setting in which both parties can openly discuss their views on the underlying dispute which can lead to enhanced communication.

Mediation is intended to foster a problem solving approach to complaints. It is intended to help uncover the real issues in your workplace. A neutral third party assists the complainant and the respondent in reaching a voluntary, mutually beneficial resolution. The mediator does not impose a decision on the parties.

Mediation /ADR Process

There are five basic steps to the mediation process: 1) Setting the Stage, 2) Gathering Information, 3) Framing the Issues, 4) Negotiating options/considering alternatives, 5) Nailing down the agreement. These steps are summarized below.

1. Setting the Stage

Introductions are made. The physical setting is controlled so that no party feels threatened. The mediator gives an opening statement which outlines his/her role and the role of the participants and demonstrates the mediator's neutrality. The mediator established protocol outlines the format of the mediation. The participants set the ground rules.

2. Gathering Information

The mediator will give each party the opportunity to tell their story uninterrupted, to state the problem as they see it. The statement is not necessarily a recital of the facts, but it is to give the parties an opportunity to frame issues in their own mind, and give the mediator more information on the emotional state of each party. The rationale behind the statement of the problem is not a search for the truth; it is a way to help solve the problem.

The mediator will often summarize key ideas to uncover each party's interests. The mediator tries to find common goals between the parties to figure out which issues may be settled and or settled first.

3. Framing the Issues

This involves putting the issues into a resolvable problem statement based on interests. It invites the parties to think of alternatives and options.

4. Negotiating options

The goal of this session is to find common ground by exploring various options and to think about possible solutions for parties to ponder. The mediator may propose a brainstorming session to explore potential solutions. The mediator and parties may decide it beneficial for the mediator to meet separately and confidentially with the parties.

5. Nailing down the Agreement

Once agreement has been reached on all or some of the issues being mediated, a written settlement agreement will be drafted. This agreement must be satisfactory to both sides. If the mediation originated from an EEO or complaint of discrimination, the University legal counsel may have to review it for standard settlement language and to ensure the language is in accordance with the law, University regulations and policies. When any needed changes have been made, the mediator, and parties will sign the final draft. The University legal counsel will review and sign the agreement. Once signed the agreement will be considered final and enforceable. Copies of the signed final agreement will be provided to all parties.

Assessment

Whether or not a settlement was reached in the mediation, we need to know how the process worked for the participants and any suggestions for improving the system. Therefore, the mediators and parties will be given a survey to complete at the end of the session.

APPENDIX 3



**INDIANA UNIVERSITY
NORTHWEST**

**Office of Affirmative Action & Employment Practices
Complaint Processing Intake Form**

Name: _____	Date: _____
Address: _____	Phone: Cell _____
Email: _____	Home _____
Preferred to be reached by: _____	Best time: _____

<input type="checkbox"/> Student <input type="checkbox"/> Undergraduate <input type="checkbox"/> Graduate Student	<input type="checkbox"/> Employee <input type="checkbox"/> Faculty <input type="checkbox"/> Staff
Department: _____	Department: _____
School: _____	Job Title: _____
Major: _____	Job Classification: _____
Degree: _____	Pay Grade: _____

Discrimination Based on:

<input type="checkbox"/> Age	<input type="checkbox"/> Harassment	<input type="checkbox"/> Religion
<input type="checkbox"/> Color	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Disability	<input type="checkbox"/> National Origin	<input type="checkbox"/> Sex (Anatomy)
<input type="checkbox"/> Ethnicity	<input type="checkbox"/> Pregnancy	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Gender (Identity)	<input type="checkbox"/> Race	<input type="checkbox"/> Veteran's Status

In what area did the discrimination occur?

<input type="checkbox"/> Academic Environment	<input type="checkbox"/> Exclusion	<input type="checkbox"/> Qualifications
<input type="checkbox"/> Admission	<input type="checkbox"/> Financial aid	<input type="checkbox"/> Referral
<input type="checkbox"/> Advertising	<input type="checkbox"/> Grading	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Athletes	<input type="checkbox"/> Harassment	<input type="checkbox"/> Seniority
<input type="checkbox"/> Benefits	<input type="checkbox"/> Hiring/Promotion/Term	<input type="checkbox"/> Student Programs
<input type="checkbox"/> Demotion	<input type="checkbox"/> Intimidation/Reprisal	<input type="checkbox"/> Terms and Conditions
<input type="checkbox"/> Discharge	<input type="checkbox"/> Job Classification	<input type="checkbox"/> Training/Apprentices
<input type="checkbox"/> Discrimination	<input type="checkbox"/> Layoff/Recall	<input type="checkbox"/> Union Representation
<input type="checkbox"/> Equal Pay	<input type="checkbox"/> Promotion	<input type="checkbox"/> Wages/Salary

Other _____

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Complaint Processing Intake Form**

Requested relief sought for this complaint? _____ _____
Has complainant confronted the respondent? Yes _____ No _____ If so, when? _____ Assistance from any other IUN official or external agency? _____ If yes, who? _____
Allegation against: Name _____ Title: _____ Date alleged act or incident occurred. Or date you became aware of this: _____
Others are affected by this complaint: Name(s): _____ Contact Info: _____ Name(s): _____ Contact Info: _____ Name(s): _____ Contact Info: _____
To be completed by The Office of Affirmative Action and Employment Practices: Types of service provided: I Information Only C Consultation F Formal Procedures IN Informal Procedures R Referral T Suggested Training M Mediation W Written response O Other : _____
Please Provide a Detailed Explanation of Complaint; Discrimination Allegations: _____ _____ _____ _____ _____ _____ _____ _____ _____ _____