

Northern Illinois University

Affirmative Action and Diversity Resources Non-Discrimination/Harassment Policy and Complaint Procedures for Employees and Students



AADR

Affirmative Action and Diversity Resources



NIU Human Resource Services
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Northern Illinois University
Affirmative Action and Diversity Resources
Non-Discrimination/Harassment Policy and Complaint Procedures for
Employees and Students

Preface

Employment/academic decisions that are based upon race, color, national origin, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, political affiliation, status as a victim or perceived victim of domestic or sexual violence or any other factor unrelated to professional qualifications are considered a form of illegal discrimination and are a violation of this policy. Additionally, conduct that results in sexual harassment and/or retaliation (as defined by this policy) is also considered unlawful and prohibited by this policy.

Any employee or student who experiences and/or witnesses possible acts of discrimination, harassment, or retaliation has the right and responsibility to report this activity to the applicable university administrator or to Affirmative Action and Diversity Resources (AADR) immediately. Complaints and/or allegations of discrimination will be examined in a reasonable, objective, confidential, and expedient manner, and in accordance with applicable federal and state employment laws. As warranted by the facts of the situation and in coordination with the organizational areas involved, suitable corrective action will be implemented whenever wrongful discrimination, harassment, or retaliation in any form has been found to have occurred. Any employee or student who engages in conduct prohibited by this policy will be required to participate in appropriate corrective measures. All disciplinary actions will be performed in accordance with applicable procedural and substantive due process principles and personnel procedures as stated by this or other applicable university policies.

Northern Illinois University is an Equal Employment Opportunity institution and does not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, political affiliation, status as a victim or perceived victim of domestic or sexual violence or any other factor unrelated to professional qualifications. The Constitution and Bylaws of Northern Illinois University also prohibit discrimination on the basis of sexual orientation or political views or affiliation.

This updated policy is effective as of March 26, 2004, and is applicable to all faculty, supportive professional staff, operating staff, and students at all NIU campus locations, including DeKalb, Hoffman Estates, Naperville, Oregon, and Rockford, Illinois.

Affirmative Action and Diversity Resources – Introduction

University policies prohibit discrimination or harassment on the basis of race, color, national origin, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, political affiliation, or any other factor unrelated to professional qualifications. Consistent with the importance of these objectives, the university maintains an accessible, diligent, and responsive complaint resolution system. Such procedures are outlined in the following sections. The university's policies represent more than a reflection of static legal regulations; they embody a code of conduct and ethics for which we hold each employee,

supervisor, and university community member, including but not limited to, university vendors and affiliates accountable.

The Board of Trustees has delegated the authority and responsibility to implement the various elements of this policy to the university administration. The university community, through its individual members, is expected to integrate these standards and cooperate in the fulfillment of this important aspect of our mission. It is essential to the effectiveness of this policy that appropriate administrative officers are promptly informed of offensive conditions in order to properly respond to and correct unacceptable conditions that may arise through the actions of individuals.

Consistent with procedural and substantive due process principles, Northern Illinois University has developed policies and procedures intended to protect the legitimate rights of its students and staff as derived from applicable state and federal law. In this regard, the university will not tolerate discrimination or harassment in any form. If you, as a member of the university community, fairly regard yourself as a probable victim of discrimination or harassment, including sexual harassment, the avenues of on-campus recourse described in this policy have been designed to assist you. The most current policy statement on non-discrimination/harassment is posted on the NIU homepage (www.hr.niu.edu). Summaries of these policies and procedures are also distributed to the university community.

The Affirmative Action and Diversity Resources program has been established to maintain these policies and procedures along with the prioritization of diversity as a key strategic factor and as one of the primary strengths of our institution. If you have any concerns regarding equal employment opportunity, discrimination/harassment, we urge and rely upon you to contact a representative of Affirmative Action and Diversity Resources. We trust you will use these resources fairly and with confidence in the university's willingness to take corrective action where warranted.

Affirmative Action and Diversity Resources- Mission Statement

Affirmative Action and Diversity Resources (AADR) at Northern Illinois University is a multifaceted department committed to ensuring that equal employment opportunities and diversity exist throughout the university community. In part, this mission is to achieve a consistent pursuit of excellence in services, programs, and policies that value and reflect diversity and the institution's commitment not to engage in any employment, academic, or institutional decisions on the basis of race, color, national origin, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, political affiliation, or any other factor unrelated to professional qualifications.

University Statement on Equal Opportunity in Employment and Education

The university acknowledges that equal employment opportunity is the right of all individuals to work and advance in the workplace on the basis of merit, ability, and potential without regard to group affiliation or gender. Additionally, all facets of the educational process at the university shall be accessible to all students and based upon the student's ability and potential. Specific procedures that secure and maintain equal opportunity in education are stated by the regulations of the Division of Academic and Student Affairs. Unlawful discrimination pertaining to students in all aspects of their educational relationship to the university is prohibited by this policy.

University Statement Regarding Affirmative Action

The doctrine of affirmative action generally encourages employers to advocate and implement policies and procedures specifically geared towards the recruitment, employment, and promotion of qualified individuals from groups that have been formerly excluded from equal opportunity in employment. Essentially, effective affirmative action plans should facilitate constructive, deliberate steps towards achieving an environment that is representative of a balanced workforce. Affirmative action is an essential tool in assuring that employment opportunities are accessible to all qualified individuals.

All supervisors, directors, department chairs, administrative officers, deans, and executive officers are individually accountable for the appropriate implementation of approved affirmative action programs and adherence to equal employment opportunity and non-discrimination/harassment standards in their respective areas of responsibility. For more information regarding the university's affirmative action goals and annual report, please consult the Affirmative Action Plan located at www.hr.niu.edu.

NON-DISCRIMINATION/HARASSMENT POLICY

Policy Violation-Defined

This policy prohibits employment/academic decisions that are unrelated to performance, qualifications, academic achievement, and/or conduct that seek to limit, segregate, or classify employees/students on the basis of race, color, national origin, sex, religion, age, physical or mental disability, marital status, veteran status, sexual orientation, political affiliation, or any other factor unrelated to professional qualifications. Specifically, this policy prohibits conduct that discriminates against any employee/student with respect to any aspect of employment, including but not limited to:

- Hiring and firing;
- Compensation, assignment, or classification;
- Transfer, promotion, layoff, or recall;
- Job advertisements;
- Recruitment;
- Testing;
- Use of university facilities;
- Training and apprenticeship programs;
- Fringe benefits;
- Pay, retirement plans, and disability leave;
- Disciplinary actions;
- Other terms and conditions of employment.

-OR-

With respect to any aspect of education, including but not limited to:

- Any aspect of admission to the university;

- Programs or organizational activity;
- Educational performance;
- Treatment in the classroom or course evaluation;
- Academic activities external to the classroom;
- Counseling;
- Career planning and placement services;
- Financial assistance;
- Health services;
- Insurance;
- Athletics;
- Access to university facilities;
- All other student activities that have a reasonable impact upon students at the university

-Or-

Harassment in the workplace that is based upon the employee's/student's protected characteristic and;

- Creates or is intended to create an intimidating, hostile, offensive working environment;
- Unreasonably interferes with work performance; or
- Otherwise adversely affects an individual's employment opportunities;
- Constitutes sexual harassment.

Policy Violations - Examples

This section provides some examples of conduct that are considered unlawful discrimination and thus prohibited by this policy. Please consult the specific prevention policies and statements located in the Appendix for more detailed information where appropriate.

1. Policy Violation on the basis of Race - occurs when differences in employment/academic decisions are based upon the employee's/student's race. Conduct prohibited by this policy includes, but is not limited to, the use of racial slurs, graffiti, or ethnic jokes that create a hostile or abusive working environment.

Typically, a hostile environment is created only when the discrimination or harassment is severe and alters the conditions of the victim's employment/academic environment. The occasional improper comment and/or joke, generally, will not create such a hostile environment and/or be indicative of racial discrimination unless such conduct is severe, pervasive, and/or occurs on a frequent basis.

2. Policy Violation on the basis of Sex/Gender - occurs when differences in employment/academic decisions are based upon the sex/gender of the employee/student. Policy violations include decisions that are based upon sex/gender or involve a comparison of one gender to another that results in different treatment. Members of either gender may bring claims of discrimination on the basis of sex/gender. Sexual harassment or decisions based on marital status or pregnancy are also forms of gender/sex discrimination. Hiring decisions based upon physical characteristics can be discriminatory if such decisions have an

adverse impact upon one gender more than the other. (Example: Height and weight requirements that tend to exclude more women than men have been ruled discriminatory in the absence of a clear business necessity for the requirement).

3. ***Policy Violation on the basis of National Origin*** - occurs when differences in employment/academic decisions are based upon the employee's/student's place of birth or ancestry. Some examples of this type of violation include, but are not limited to, employment/academic decisions that are based upon;
 - Physical, cultural, or linguistic characteristics of a national origin group;
 - Marriage to or association with persons, membership in organizations, or attendance at schools or churches associated with a national origin group;
 - Aptitude or other employment tests, unless such requirements are applied equally to all applicants and relate to successful job performance;
 - An accent or manner of speaking, unless there is a legitimate, nondiscriminatory reason for the action.

4. ***Policy Violation on the basis of Religion*** - occurs when differences in employment/academic decisions are based upon the employee's/students religious beliefs/practices. Religious practices include traditional religious beliefs, moral and ethical beliefs, and beliefs that individuals hold "with the strength of a traditional religious view."

5. ***Policy Violation on the basis of Age*** - occurs when differences in employment/academic decisions are based upon the employee/student being age 40 and above. Northern Illinois University will not tolerate age-related employment decisions against any individual, regardless of his or her age.

Examples of age related discrimination includes, but is not limited to, characterizations, stereotypes, jokes, or insults regarding the employee's/student's age, poor health, and/or medical conditions, forced retirement, and the use of any derogatory terms regarding age.

For more information regarding age discrimination, please consult the **University Statement Prohibiting Discrimination on the Basis of Age** located in Appendix A.

6. ***Policy Violation on the basis of a Disability*** - occurs when differences in employment/academic decisions are based upon the employee's/student's disability rather than upon the employee's/student's ability to perform the essential functions of the position/academic requirements with or without reasonable accommodations.

For more information regarding discrimination on the basis of a disability, please consult the **University Statement Prohibiting Discrimination against Individuals with Disabilities** located in Appendix D.

7. ***Policy Violation on the basis of Sexual Orientation*** - occurs when employment/academic decisions are based upon or biased because the employee's/student's sexual orientation is or is perceived to be heterosexual, lesbian, gay, bisexual, or transgender. Examples of conduct

prohibited by this policy includes, but is not limited to, offensive language, mockery, verbal threats, damage to personal property, and physical violence or harassment.

For more information regarding discrimination on the basis of sexual orientation, please consult the **University Statement Prohibiting Discrimination on the basis of Sexual Orientation** located in Appendix B.

8. ***Policy Violation on the basis of Sexual Harassment*** – occurs when sexual behavior or requests for sexual favors:
- Are made either explicitly or implicitly a term or condition of employment or educational performance.
 - Are made as the basis of employment or academic decisions affecting the individual as an employee or a student.
 - Have the express purpose or effect of substantially interfering with an individual's work/academic performance or creates an intimidating, hostile or offensive working academic environment

The two types of sexual harassment are known as Quid Pro Quo and Hostile Environment and are defined below:

Quid Pro Quo- is the Latin term for “this for that” and occurs when there is a demand for a sexual favor in exchange for some employment/academic benefit.

Hostile Environment- occurs when the harassing behavior unreasonably interferes with an employee's/students work/academic performance or creates a hostile, intimidating, or offensive work/academic environment.

In order for the conduct to be considered sexual harassment, the behavior must be:

- Unwanted or unwelcome;
- Sexual in nature or related to the sex or gender of the employee/student;
- Sufficiently severe or pervasive to alter the conditions of the recipient's employment or education.

Examples of sexual harassment in employment or education include, but are not limited to, uninvited sexual comments or innuendo, oral, written, or electronic communications that are sexually explicit in nature or sexually explicit questions, jokes, or anecdotes about gender-specific traits.

For more information regarding sexual harassment, please consult the **Sexual Harassment Prevention Policy** located in Appendix C.

9. ***Policy Violation on the basis of Retaliation for opposing unlawful employment practices protected by Title VII or this policy*** – occurs when an employee/student is subjected to adverse employment/academic decisions because the employee/student has opposed and/or has a reasonable good faith belief that violations of this policy or unlawful employment/academic practices have occurred. A policy violation on the basis of retaliation

may also occur if the employee/student is retaliated against because he /she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing concerning an unlawful employment/academic practice.

For more information regarding retaliation, please consult the **Non-Retaliation Policy Statement** located in Appendix E.

10. *Policy Violation on the basis of VESSA*- occurs when differences in employment/academic decisions are based upon the employee's/student's status as a victim of or perceived victim of domestic or sexual violence. Conduct prohibited by this policy includes, but is not limited to, discharging or harassing an individual for exercising their rights under VESSA.

UNIVERSITY AFFIRMATIVE ACTION COMPLAINT PROCEDURES

Affirmative Action Complaint Process - Defined

The goal of the complaint process is to resolve and correct situations and maintain positive working environments that are consistent with legal and professional standards. Developing case law indicates that most courts encourage individuals who experience illegal acts of discrimination, harassment, or retaliation to utilize internal procedures provided by the organization prior to filing an external claim. As the university is committed to maintaining an educational/employment atmosphere that is free from all forms of discrimination, all employees/students are strongly encouraged to utilize the internal complaint procedures as stipulated by this policy to address possible violations of the university's non-discrimination/harassment policy.

An employee and/or student who has witnessed and/or experienced what he or she believes is conduct that violates the university's non-discrimination/harassment policy should initially attempt to resolve the issue directly with the alleged offender or seek assistance from his/her supervisor. If this is not possible, the employee/student has the right and/or responsibility to file an affirmative action complaint in accordance with the procedures contained in this policy. The employee/student may also seek assistance through the Affirmative Action Complaint Alternatives outlined in this policy. However, **seeking assistance via these alternatives will not constitute the filing and/or notification of issues that can be addressed by the affirmative action complaint process and thus an investigation into such matters should not be an anticipated result.** An affirmative action investigation will only be conducted upon receipt of a formal affirmative action complaint form and if warranted by the facts contained in the formal complaint form or discussed with the parties involved.

The Affirmative Action Complaint Process and procedures contained in this document may proceed independent of any other grievance procedure provided for elsewhere by the university including, but not limited to the Faculty/Staff University Grievance Process, Grade Appeal Process, and Collective Bargaining Grievance Processes. An investigation may be waived by AADR if the desired outcomes necessary to achieve policy compliance or to resolve the issues contained in the complaint are achieved by these or other internal administrative processes. The

employee/student also has the right to withdraw his/her affirmative action complaint, by means of a written request, at any time during the investigation process.

Based upon the circumstances of a given situation, confirmed violations of this policy may result in disciplinary action including, but not limited to, written/verbal letters of reprimand, suspension, or termination of employment/academic program.

Affirmative Action Complaint Process

Affirmative Action Complaint- Procedures

An affirmative action complaint may be filed by choosing any one of the following methods:

Contact AADR for an appointment to discuss the nature of the complaint. The initial appointment is referred to as the intake interview. During this interview, the employee/student should be prepared to discuss all factual circumstances and information upon which the complaint is based and will be required to complete an Affirmative Action Complaint Form.

-Or-

Complete a formal Affirmative Action Complaint Form and return it to:

Office of Affirmative Action and Diversity Resources
Human Resource Services
Northern Illinois University
DeKalb, Illinois 60115-2854
(815) 753-1118
TDD: (815) 753-2303

A formal complaint form can be obtained from AADR, the Customer Service Desk located in Human Resource Services, or our website at www.hr.niu.edu. An example of the formal complaint form is located in Appendix J of this policy. Additional documentation may be submitted with the complaint form but is not required.

Affirmative Action Complaint Process – Statement of Time Frame Limitations

Any employee/student who wishes to file an affirmative action complaint must do so as soon as possible after the alleged incident, but no later than one year, after the most recent conduct alleged to constitute the harassment or discrimination. Any former or prospective employee/student who wishes to file an affirmative action complaint must do so within 90 days of the alleged incident. These time frame limitations are designed to encourage complainants to come forward as soon as possible after time frame alleged conduct has occurred and to protect respondents against complaints that are too old to be effectively investigated. Hence, affirmative action complaints filed after the statute of limitations has lapsed will not be investigated absent express authorization to do so.

Affirmative Action Complaint – Presence of Support Persons

At the initial interview (and at subsequent meetings if appropriate), the employee/student and the alleged offender may be accompanied by a friend, family member, or other individual if such presence is necessary to provide support and/or clarification of the facts related to the complaint. (Typically, the number of support persons should not exceed two (2) persons). Any individual who is participating in this capacity must maintain the same level of confidentiality that is expressed throughout this policy.

If the support person is a licensed attorney, such disclosure must be made in advance to give the university an opportunity to arrange for the attendance of counsel. If the support person is a licensed attorney who will not be acting in an “of counsel capacity,” this clarification must be formally acknowledged in a written disclosure.

Affirmative Action Complaint – Conducting the Investigation

The purpose of the investigation is to determine if there is enough evidence to conclude that a violation of this policy has occurred. If there is sufficient evidence to conclude that a violation has occurred, an affirmative action finding will result and will include recommendation(s) for corrective and/or disciplinary action. Official findings may become part of the offender's permanent employment record located in Human Resource Services. There will not be an affirmative action finding if there is not enough evidence to conclude that a violation has occurred. However, AADR may recommend disciplinary or corrective action as warranted by the information contained in the complaint and/or discovered during the investigation.

An affirmative action investigation will be conducted only if there are enough facts to conclude that a possible violation of this policy has occurred. The employee/student filing the complaint is not required to inform his/her immediate supervisor about his/her concerns when the immediate supervisor is the alleged offender. In this event, the employee/student may contact applicable departmental authorities head or AADR for assistance. AADR or its designee is primarily responsible for conducting the affirmative action investigation. With the cooperation of the department or unit involved, AADR will conduct a thorough and confidential investigation regarding the issues involved in the complaint. An investigation may take up to 90 days to complete.

Both parties will receive a written report upon conclusion of the investigation. The written report will summarize factual information obtained during the investigation, outcome of the investigation, and recommendations for resolution. While the full content of the complaint investigation will include witness testimony or other documentation, the employee/student and/or the alleged offender will not have access to this information absent a legal requirement to provide such. Witnesses, support persons, or other affected parties will not receive a written report of the investigation unless it is deemed appropriate by AADR.

AA DR and the university recognize that the alleged offender has the right to seek to preserve his/her privacy in regard to the content of the complaint and any corrective or disciplinary actions that may result from this process. Every effort will be made to ensure that privacy for all parties is maintained to the greatest extent possible.

AADR reserves the right to provide a summary of the findings and notification of the investigation to the appropriate university official, department, or division. This notification will be restricted to department or division heads in an identifiable line of supervisory or administrative responsibility in relation to the parties and subjects involved in the complaint. External parties will not receive any notification or information regarding the complaint or investigation unless a request is made by legal subpoena or directed by a court of law.

AADR reserves the discretion to determine whether or not to initiate a full investigation, the extent of the investigation, the content of all findings, recommendations, lack of findings, determinants, and resolution procedures as warranted by the facts of the situation evaluated and considered by the assigned investigating staff.

Affirmative Action Complaint – Appeal

The results of the affirmative action investigation may be appealed by either party by submitting a written request of appeal to the associate vice president of administration and human resources or designee. The appeal must be submitted within ten (10) workdays after the date of the written report regarding the investigation and must contain the specific reason for the appeal and/or facts that were not available at the time of the investigation.

Affirmative Action Complaint - Alternatives

Any employee/student who does not wish to file a formal affirmative action complaint may seek assistance/resolution of his/her workplace concerns via Affirmative Action Complaint Alternatives that are outlined below. **Seeking assistance via these alternatives will not constitute the filing and/or notification of issues that can be addressed by the affirmative action complaint process and thus an investigation into such matters should not be an anticipated result.**

Supervisory Assistance- An employee and/or student who has witnessed and/or experienced what he or she believes is conduct that violates the university's non-discrimination/harassment policy should initially attempt to resolve the issue directly with the alleged offender or seek assistance from his/her supervisor. AADR recognizes that different issues will require customized approaches in resolving departmental complaints. Ultimately, the nature of the alleged issues will determine how the supervisor will attempt to resolve the matter. Most importantly, the process must be applied consistently. Evidence of inconsistent treatment or application of this process may be considered a form of conduct prohibited by this policy.

Every employee who is employed in a supervisory capacity including, but not limited to, supervisors, directors, department chairs, administrative officers, deans, or executive officers, has the responsibility to make a good faith effort to prevent violations of this policy and/or to eradicate the prohibited conduct immediately. Any supervisor who refuses and/or willingly fails to address or resolve conduct that is prohibited by this policy may be subject to disciplinary action. Below are several suggestions for supervisors on how to address policy violations in the workplace.

- Promptly address all allegations of discrimination either through a departmental inquiry as explained by this policy or by contacting Affirmative Action and Diversity Resources for assistance;
- Take immediate and reasonable steps to eradicate conduct that is prohibited by this policy;
- Evaluate and discipline employees consistently, regardless of their individual characteristics, and maintain thorough documentation of any disciplinary and/or personnel actions;
- Encourage and/or direct all employees to attend discrimination and diversity awareness training programs established or promoted by Affirmative Action and Diversity Resources (AADR) or the university;
- Communicate regularly the strong disapproval of any conduct that violates this policy and re-establishes the department's commitment to disciplining such behavior;
- Establish and communicate an open door policy for employees to express their concerns in a safe and confidential setting;
- Make sure that the Affirmative Action Non-Discrimination/Harassment Policy and Complaint Procedures is centrally located and easily accessible to all employees and/or students served by the department;
- Read and understand the policy and its provisions;
- Take steps to ensure that every employee is aware of the complaint procedures contained in this policy;
- Make sure that all employees are aware of the services provided by Affirmative Action and Diversity Resources.

Mediation - In some instances, both parties may agree to participate in the Mediation Process. The Mediation Process is a voluntary process that provides a method for the parties to discuss their workplace issues/concerns with each other directly, as facilitated by an authorized university official, or in the presence of a neutral mediator in a non-confrontational and non-intrusive setting.

For more information regarding the **Mediation and the Mediation Agreement**, please consult Appendix H.

Voluntary Resolution Agreement Process - As an alternative to the formal investigation, findings and intervention methods that are outlined in this policy, the parties to the complaint and the University may enter into a Voluntary Resolution Agreement Process. The Voluntary Resolution Agreement Process provides an alternative intervention option that is designed to effectively fulfill university compliance interests while avoiding potentially intrusive formal approaches while maintaining reasonable confidentiality for involved individuals. A resolution agreement is a restricted-access record that specifies the nature of the complaint, applicable university policies, acknowledgement of awareness of those policies, and contractually binding agreements by the parties to comply with university policies and any other terms, conditions, or restrictions as may be set forth in the resolution agreement. Further action on a relevant incident(s) would be taken only in the event that subsequent formal or informal complaints are received, or if the terms and conditions in the resolution agreement are violated.

Confidential Counseling - As an alternative to the complaint process, any employee and/or student may seek confidential counseling through designated units authorized to provide this service. The information discussed during these sessions will be kept in the strictest of confidentiality and will not be shared with AADR and thus, this **process is not considered a formal complaint and will not result in an investigation.**

For confidential counseling, faculty, SPS, and/or Operating Staff members should contact University Resources for Women at 753-0320, the Office of the Ombudsman at (815) 753-1414, or the Office of Employee Wellness and Assistance at (815) 753-9191. In addition to these units, students may contact Counseling and Student Development Center at 753-1206 or, in the case of rape or assault, the University Health Service at (815) 753-1311 or NIU Police (815) 753-1212.

External Agencies - Any employee and/or student may file a complaint with the Illinois Department of Human Rights (IDHR), or with the Equal Employment Opportunity Commission (EEOC). The Chicago locations for both of these offices and the websites are indicated below:

Illinois Department of Human Rights
Department of Human Rights
James R. Thompson Center
100 West Randolph Street, Suite 10-100
Chicago, Illinois 60601
(312) 814-6200
(312) 263-1579 (TDD)
www.state.il.us/dhr

Equal Employment Opportunity Commission Headquarters - Chicago District Office
Equal Employment Opportunity Commission
500 West Madison Street
Suite 2800
Chicago, Illinois 60601
(312) 353-2713
(312) 353-2421
www.eeoc.gov

For more information regarding these **External Agencies**, please consult Appendix I.

General Provisions Applicable to the Complaint Process

General Provisions

The university considers accusations of discrimination, harassment, or retaliation as serious events, which can have a far-reaching effect upon the careers and lives of individuals. Thus, the employee/student filing the complaint, the alleged offender, and/or any other member of the university community should not take such accusations lightly.

Intentional false allegations, misrepresentation of facts, failure/refusal to cooperate as a witness, and/or the intentional breach of confidentiality is a violation of this policy and such conduct may result in disciplinary action including and up to suspension and/or termination of employment. Moreover, an intentional breach of confidentiality may also constitute an act of retaliation and as such could be treated as a separate and independent complaint initiated by the opposing party to the original complaint or AADR. Fairness to all individuals involved with a complaint is a priority. Any disciplinary actions would be implemented in accordance with the standards set forth in the University Constitution and applicable Personnel Procedures. Standards of confidentiality will include a reasonable attempt to protect anonymity (upon written request to do so) and to limit all discussion regarding the issues contained in the complaint to those involved with the parties or subjects as necessary. The alleged offender will have notice of the complaint and will have the opportunity to respond to all allegations.

Standard of Proof

Generally, the goal of an affirmative action investigation is to reach a conclusion that as to whether or not there is a greater likelihood that the violation did or did not occur. The conduct alleged to have constituted harassment or discrimination under this policy shall be evaluated from the perspective of a similarly situated reasonable person and viewed considering the totality of circumstances.

Corrective Action or Sanctions

In the event that a finding is reached concerning a violation of the university's Non-Discrimination/Harassment Policies and Procedures for Employees and Students, corrective measures (including sanctions) will be enforced to ensure that the conduct resulting in a policy violation is eradicated. Sanctions against employees shall be consistent with the university's applicable personnel due process and grievance procedures and shall be commensurate with the severity of the policy violation. Such sanctions may include, but are not limited to, a letter of warning, official reprimand, referral to a required counseling program, suspension from employment with or without pay, or termination from employment in accordance with prevailing university personnel due process procedures or applicable collective bargaining agreements. Human Resource Services/AADR may monitor corrective actions to ensure compliance. Failure/refusal by an authorized administrator to enforce a formal sanction or corrective measure will be considered a violation of this policy and/or may be considered insubordination, discrimination, or retaliation.

Formal sanctions or official findings may be imposed and enforced by college deans when the alleged offender is a faculty member, department administrators or supervisors when the alleged

person is an SPS or Operating Staff member, and by the Student Services Official when the alleged offender is a student.

Corrective measures may be appealed in writing and directed to the associate vice president for administration and human resources, or designee, within 10 days from the date the corrective action is determined. Formal sanctions may become part of the offender's permanent employment record maintained by Human Resource Services. Sanctions may also be imposed upon any administrative official or supervisor who fails to respond to a complaint and/or refuses to enforce corrective measures or sanctions.

Record Keeping

The person conducting an investigation is required to maintain records of all witness interviews, facts, evidence, outcomes, and resolutions of the complaint/investigation. Records of the investigation will not be maintained in personnel or student files unless formal findings, corrective action, or sanctions are imposed. In this instance, the employee/student must be informed that this information has become part of his/her permanent employment/student record. All original investigative records and notes will be maintained by AADR in accordance with university record retention schedules. Working copies will be utilized by the investigator and may be destroyed after completion of the investigation and submission of any final report. Departments/divisions conducting informal investigations must also adhere to these record-keeping principles.

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Appendix A
**UNIVERSITY STATEMENT PROHIBITING DISCRIMINATION
ON THE BASIS OF AGE**

University Statement

The university accepts its share of responsibility to make every effort to ensure that faculty, staff, and students are not subjected to employment or academic decisions on the basis of age. Such conduct is illegal under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA), and is a violation of this policy. Directors, deans, department chairs, and supervisors are responsible for implementation of the university policies and practices against age related discrimination or harassment in their respective departments and must not tolerate age related discrimination against any individual regardless of age.

In accordance with the principles established under Title VII, the ADEA, conduct such as inappropriate age-related characterizations or stereotypes, jokes, and/or insults about an employee's age, poor health, and/or medical conditions or forced retirement efforts are examples of conduct that is prohibited by this policy.

The Age Discrimination in Employment Act (ADEA) - Defined

The Age Discrimination in Employment Act (ADEA) prohibits employment discrimination, on the basis of age, against individuals who are age 40 and over and, with certain limited exceptions, bans mandatory retirement at any age. The Act prohibits discrimination in all aspects of employment including, but not limited to, hiring, firing, wages, terms, conditions, or privileges of employment.

The purpose of the ADEA is to encourage employment of persons based on their ability rather than their age and to prohibit arbitrary age discrimination in employment. The ADEA makes it unlawful for an employer to discharge or fail to hire any individual or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's age. Additionally, the ADEA prohibits any employment decision that seeks to limit, segregate, or classify employees in a way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee because of the individual's age.

Exceptions to the ADEA

Under the ADEA, an employer may consider age with respect to employment and personnel decisions if "age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business." This exception has very limited scope and application, and is generally construed narrowly to involve considerations of public safety. Any personnel decisions based upon this exception will be reviewed on a case-by-case basis.

Appendix B

UNIVERSITY STATEMENT PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION

University Statement

Bias against heterosexuals, lesbians, bisexuals, gays, and transgender individuals may lead to inappropriate or unacceptable behavior in the workplace, classrooms, residence halls, or campus-based activities. Offensive, discriminatory, or harassing behavior based upon an individual's sexual orientation is prohibited by the Illinois Human Rights Act and this policy. Violation of this policy should be reported to an appropriate university official. All university faculty, staff, and students have a shared responsibility to see that each individual is afforded equal treatment in employment and education regardless of sexual orientation. All supervisors, directors, department chairs, administrative officers, deans, and executive officers are individually responsible for the implementation of the university's policy against discrimination based upon sexual orientation in their respective areas.

In accordance with this policy, conduct such as offensive language, mockery, verbal threats to damage personal property, or physical violence against people who are or are perceived to be heterosexual, lesbian, gay, bisexual, or transgender is prohibited.

History of the President's Committee on Sexual Orientation

In 1988, the University Constitution and Bylaws were amended to include non-discrimination based on sexual orientation. In 1992, the university established a President's Committee on Sexual Orientation and charged this body, in part, to recommend procedures, training, orientation programs, and/or educational interventions that were needed to address and eliminate discrimination and harassment on the basis of sexual orientation. AADR is charged with ensuring that the non-discrimination policy is known, understood, and implemented throughout the university.

Where Individuals can go for Assistance

In addition to AADR and the other services described in this document, employees/students who experience this form of discrimination may also seek assistance from the following units:

Counseling and Student Development Center, (815)753-1206

The Lesbian, Gay, Bisexual, Transgender & Allies Coalition (students), (815) 753-0584

The Gay and Lesbian Alliance (graduate students, staff, and faculty), (815) 748-6415

The President's Advisory Committee on Sexual Orientation, (815) 753-8365

The student Lesbian, Gay, Bisexual, Transgender & Allies Coalition and the Gay and Lesbian Alliance for faculty, staff, and graduate students offer a variety of educational programs and resources on homophobia, heterosexism, and discrimination against lesbian, gay, bisexual, and transgender members of the university community. Active efforts are made to assist in finding help and in providing counseling and other appropriate resources for students and staff.

Appendix C

UNIVERSITY SEXUAL HARASSMENT PREVENTION POLICY

University Statement

It is the policy of Northern Illinois University that no member of the university community may sexually harass another. The sexual harassment of individuals (either females or males) is a violation of both law and university policy. It is the intention of the leadership of Northern Illinois University to unequivocally establish an environment for learning and service that is in all manners both reasonable and supportive of the lawful interests of its students and employees.

To assist and facilitate in the creation of a respectful educational environment, sexual harassment awareness and prevention training will be provided periodically to various university supervisory personnel. This training may include defining and understanding sexual harassment, reviewing laws and university policy, discussing video examples and case studies, increasing awareness of personal behavior, learning strategies for prevention, and providing information on how to respond to sexual harassment when it occurs.

Sexual Harassment in Employment is defined as any unwelcome sexual advance or requests for sexual favors or conduct of a sexual nature when submitting to such conduct:

- Is made either explicitly or implicitly a term or condition of employment;
- Is used as the basis of employment decisions affecting the individual as an employee;
- Has the purpose or effect of substantially interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Examples of Sexual Harassment in Employment

The law and university policies prohibit all forms of sexual harassment against individuals whether verbal, non-verbal, or physical. Examples of illegal and/or administratively unacceptable sexually harassing conduct in the workplace include, but are not limited to:

- Uninvited sexual comments or innuendo;
- Oral, written, or e-mail communications that are sexually explicit in nature;
- Sexually explicit questions, jokes, or anecdotes about gender specific traits;
- Sexually suggestive sounds, gestures, gifts, notes, or visual materials such as magazines, pictures or posters, photos, cartoons, or drawings;
- Direct or indirect threats based on sexual favors or the refusal to consent to sexual favors;
- Sexual leering, uninvited touching, stroking, or gestures;
- Communication of unsought sexual propositions, requests for dates, sexual favors, or lewd remarks or sounds;
- Coerced sexual intercourse;
- Sexual assault or abuse.

Sexual Harassment in Higher Education is defined as any unwelcome sexual advances or requests for sexual favors made by an executive, administrative staff, or faculty member to a student, or any conduct of a sexual nature exhibited by such person(s) toward a student, when

such conduct substantially interferes with the student's educational performance or creates an intimidating, hostile, or offensive educational environment.

In both contexts, the behavior must be:

- Unwanted or unwelcome;
- Sexual in nature or related to the sex or gender of the employee/student;
- Sufficiently severe or pervasive enough to alter the employee's/student's work or academic environment.

Examples of Sexual Harassment in the Classroom or Academic Environment

Examples of sexual harassment in the classroom or academic environment include, but are not limited to:

- Patterns of conduct that are not legitimately related to the subject matter of a course and causes discomfort or embarrassment for the student. Such conduct may include touching, patting, hugging, brushing against an individual's body, repeated, or unwanted staring;
- Remarks about sexual activity, experience, or orientation in the classroom when such discussion is not reasonably and legitimately related to the subject matter of the course;
- Display of inappropriate sexually oriented materials when such material is visible by others and unreasonably interferes with a person's work or academic environment.

Types of Sexual Harassment

Generally, there are two categories for sexual harassment claims: "quid pro quo" and hostile environment.

Quid Pro Quo – Is the Latin term for "this for that" and occurs when there is a demand for a sexual favor in exchange for some employment/academic benefits. A supervisor demanding sexual favors in exchange for a raise, promotion, or course grade is an example of quid pro quo sexual harassment.

Hostile Environment – Occurs when the harassing behavior unreasonably interferes with an employee's work, a student's performance, or creates a hostile, intimidating, or offensive work/academic environment. The use of offensive language, jokes, gestures, or comments are examples of the type of conduct that could be utilized to determine if a hostile environment exists.

Student Employment and Sexual Harassment

Student employment, at both the undergraduate and graduate levels, is intended to assist students in covering the costs of their education while engaging in work that will contribute to their training and development. These activities may include supervisory responsibilities. All student employees must realize that they are subject to university employment policies as well as applicable state and federal law.

Intent vs. Effect

The effect of an action is determined by the person at whom the behavior is directed (and/or by observers) – not by the intent of the action. Enforcement agencies do not emphasize proof of intent but rather focus on effect. Thus, even an individual who does not intend to harass another individual could be viewed as a sexual harasser if the effect of the action could be shown to have damaged the individual by unreasonably interfering with work performance or educational experience, or creating an intimidating, hostile, or offensive working or educational environment. It is recognized that certain complaints may be subjective; individuals react differently to others' behaviors. The best test probably is whether, under all the circumstances, someone else's actions or behavior would offend a reasonable person.

Effect and the Academic Environment

AADR recognizes and respects the importance of academic freedom and the responsibility of each academic unit to educate NIU students. In this regard, AADR does not intend to allow the issue of effect in the realm of sexual harassment, to impede upon, stifle, or otherwise have a chilling effect upon the academic process or the vital function that it serves.

Additionally, AADR fully recognizes that some academic disciplines and/or course work involve information or instruction that may result in dialogue or communication that is sexually explicit and may be offensive to some students. In recognition of this possible result, all complaints of sexual harassment that occur in the classroom will be reviewed in reasonable relation to the course curriculum and required instruction. In most instances, a finding of sexual harassment will not result based upon the sole fact that a student became offended in the classroom if there is sufficient evidence to suggest that the instruction, dialogue, or communication was reasonably related to the course curriculum.

As an advisory, AADR strongly encourages all academic units to adhere to the following procedures:

- Make sure that all discussion that is sexually explicit in nature is contained to the classroom and is directly related to the intended course curriculum and the subject being discussed. Any extracurricular and/or personal discussion of a sexual nature that occurs between the student and faculty member is strongly discouraged.
- If applicable, make sure that all students are verbally and expressly warned about the sexually related content of the course and the dialogue that could result from such instruction. If a syllabus is provided, this warning should be contained in a course syllabus and some form of written documentation should be available as evidence that the student read and understood the warning statement.
- Make sure that any classroom discussion that appears to be offensive to a student is recognized and resolved with the student prior to dismissal of the student from the premises. It is highly advisable that each faculty member make every attempt to ensure that dialogue does not become offensive beyond what is reasonably required for the group discussion.

University Responsibility

The university accepts its reasonable share of responsibility for attempting to assure that all of its employees and students are able to perform their responsibilities in an atmosphere that is free from sexual harassment. Each supervisor, director, department chair, administrative officer, dean, and executive officer is obligated to assure compliance with this policy in his/her respective areas of responsibility. The university acknowledges it may also be indirectly blamable for the acts of non-employees, where the university knows or reasonably should have known of the conduct and fails to initiate immediate and appropriate corrective action. Such offensive behavior should be reported to a proper university official.

Upon receiving a report or information concerning a potential violation of the university's Non-Discrimination/Harassment policy, the university is obligated legally and ethically to take justified corrective measures, to monitor the situation, and enforce the provisions of this policy. This obligation becomes activated whenever a complaint (informal or formal) is received by any university administrator or supervisor specified in the complaint procedures section.

Consensual Relationships, Conflicts of Interest and Assumption of Risk

Adult romantic and sexual relations between supervisors and employees, faculty and students, athletic coaches and athletes, and residence hall staff and residents do not necessarily involve sexual harassment. However, the trust accorded to faculty members by students and the powers faculty members exercise in evaluating students' work, awarding grades, providing recommendations, and the like will generally constrain a student's actual freedom to choose whether to enter into a romantic or sexual relationship with a faculty member. An employee likewise may not feel fully free to reject or end a romantic or sexual relationship with his/her supervisor. Similar considerations apply to other academic community relationships.

Therefore, where such a power differential exists, it may be exceedingly difficult to defend against a charge of sexual harassment on the grounds that the relationship was consensual. It should be anticipated that in an internal proceeding, the university generally may be less sympathetic to a defense based on consent when the facts establish that the accused had the power to affect the complainant's academic/employment status or future prospects.

Even genuinely consensual relationships between faculty and students, supervisors and employees, and between individuals associated in the campus community may be problematic. For example, such relationships may result in conflict of interest, improper favoritism, bias, or perceptions of conflict of interest, or improper favoritism or bias that adversely affect the learning or work environment. If a sexual relationship exists, effective steps must be taken to ensure that unbiased evaluation or supervision of either students or employees occurs. Consensual relationships involving a power differential, therefore, may violate university policy and equal opportunity law. Consensual relationships, whether or not a power differential is involved, that affects or results in the perception of interference with the working or learning environment, may be treated as an employment/academic performance issue. *Individuals who enter into these relationships unavoidably do so at their own personal hazard and assume all related personal risks.*

Addressing Sexual Harassment in an Informal Manner

In cases of sexual harassment, it is normal for the employee to have feelings of embarrassment or anger. However, it is also recognized that a victim of sexual harassment, first and foremost, wants the behavior to stop immediately. Most students, faculty, and staff begin the process of dealing with possible sexual harassment by starting at the basic level. The following are some suggestions on how to express one's objections to such behavior in an informal manner:

- Do not ignore the harassment or delay in responding to it. Ignoring the behavior does not send the message that the behavior is unwelcome.
- In situations where you feel personally safe and without threat to your academic status, job, or person, communicate clearly to the offender that the behavior is unwelcome and that you want the behavior to stop. Do not be afraid to assert your rights afforded to you by state and federal law and university policy.
- Report all cases of assault or rape to the authorities without delay. If physically assaulted or raped, you should obtain medical attention immediately.
- Document the harassment. Keep a written record of what happened, when, where, and any witnesses to the events. Be as specific as possible.
- Write a letter to the offender describing what happened in a factual manner, how you feel about the incident, and that you want the behavior to stop. Sign and date the letter make a copy for you and give it to the offender in front of a witness or send it by certified mail.
- Seek advice from a supportive and knowledgeable person, friend, colleague, or counselor. Share your experience with a close friend even if your present intentions are not to file a complaint. If a complaint is filed later, your friend may be witness.
- If you want to consult with someone informally to receive personal counseling, advice, or guidance on the campus grievance process and your informal and formal options for dealing with the harassment, contact one of the offices listed that are authorized to provide Confidential Counseling, Institutional Assistance with Personal Counseling, or General Guidance.
- Any student or employee who experiences sexual harassment or retaliation is encouraged to consult with the Office of Affirmative Action and Diversity Resources for information about the university's sexual harassment prevention policy or how to make a report or seek resolution of a harassment situation.

Appendix D
**UNIVERSITY STATEMENT PROHIBITING DISCRIMINATION
AGAINST INDIVIDUALS WITH DISABILITIES**

University Statement

The university policy prohibits discrimination against individuals with disabilities in accordance with the provisions as stipulated by the Americans with Disabilities Act. This policy adheres strictly to the provisions contained in this act and prohibits discrimination against individuals with disabilities and/or employment/academic decisions that are discriminatory or that have the purpose of disadvantaging individuals with disabilities. Northern Illinois University is committed to the promotion of a positive and supportive employment and academic environment for all individuals who may have a disability. In accordance with this commitment, employment/academic decisions that are made to disadvantage individuals with disabilities are considered discriminatory under the Americans with Disabilities Act (ADA) and a violation of this policy.

The Americans with Disabilities Act – Defined

The Americans with Disabilities Act (ADA), in part, protects qualified individuals with disabilities from employment discrimination. In accordance with this Act, the university defines an individual with a disability as a person who:

- Has a disclosed physical or mental impairment that substantially limits one or more of that person’s major life activities; or
- Has a disclosed record of such an impairment; or
- Is explicitly regarded by the university as having such impairment.

If a person has little or no difficulty performing any major life activity because he/she uses a mitigating measure (such as eyeglasses, hearing aids, etc.), then that person will not meet the ADA’s definition of “disability.”

To be protected by the ADA, a person must be defined as a qualified individual with a disability. A person is a qualified individual with a disability if he/she satisfies the requisite skill, experience, education, and other job-related requirements of the employment position and can perform the essential functions of the position with or without reasonable accommodation. The ADA coordinator will determine if the person meets the necessary prerequisites for the job and if he/she can perform the essential functions of the job with or without reasonable accommodation.

Under the ADA, if an individual with a disability who is otherwise qualified cannot perform one or more essential job functions because of his/her disability, the employer must assess if there are modifications or adjustments that would enable the person to perform the essential functions required by the job. Such modifications or adjustments are referred to as “reasonable accommodations” and may include the following:

- Job restructuring;
- Rendering facilities readily accessible to individuals with a disability;
- Reassignment of the individual to another position;

- Acquisition or modification of job equipment and/or devices;
- Modification of examinations, training materials, or policies;
- Providing qualified readers or interpreters;
- Other similar accommodations.

The university will not be obligated to make “reasonable accommodations” for individuals who are not considered as a qualified individual with a disability or if such would impose an undue hardship on the operation of the business. An undue hardship is defined as an action that requires significant difficulty or expense and will be determined on a case-by-case basis by the ADA coordinator.

How to File an Affirmative Action Complaint Based Upon a Disability

In order to file a complaint of discrimination based upon a disability, the employee/student must be able to prove that he/she has a covered disability as defined by the ADA. An Affirmative Action Complaint on this basis cannot be investigated if the individual fails to prove that he/she has a protected disability as covered by the ADA and defined in this policy.

Positive Recruitment Efforts

As a commitment to the positive recruitment of employees with a disability, AADR and other designated campus committees, units, and departments will:

- Engage in proactive efforts to increase employment opportunities for individuals with disabilities by communicating with current and prospective employees, regarding employment opportunities at the university.
- Provide individuals with disability up-to-date information designed to promote an understanding of their rights and responsibilities under the ADA and to facilitate and encourage compliance by all university units.
- Require all university contractors, vendors, and suppliers doing business with the institution to comply with this policy regarding equal employment opportunities for individuals with a disability. All university contractors will also be required to provide their subcontractors with written notification of the university’s policy for employment of individuals with a disability and require subcontractors to impose similar obligations on subcontractors.

Appendix E
**UNIVERSITY STATEMENT PROHIBITING RETALIATION FOR
OPPOSING UNLAWFUL EMPLOYMENT PRACTICES UNDER
TITLE VII OR THIS POLICY**

University Statement

NIU does not condone or tolerate acts of retaliation against any individual who has a reasonable good faith belief that an unlawful employment/academic practice or a violation of this policy has occurred. Under federal and state law, it is unlawful for an employer to retaliate or discriminate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be unlawful discrimination, sexual harassment in employment or sexual harassment in higher education, discrimination based on citizenship status in employment, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing concerning an unlawful employment practice.

Consistent with these principles of non-retaliation, NIU pledges to maintain a free and accessible means of corrective measures designed to identify, address, and resolve any unlawful employment practices found to occur at NIU. Therefore, NIU strongly encourages its employees /students to report any act of retaliation to AADR immediately. When deemed necessary, AADR, the appropriate dean or other University officer may monitor student grading or faculty/ staff reappointment, tenure, promotion, merit review or other decisions to ensure that prohibited retaliation does not occur.

The term "employee" includes both current and former employees. Conversely, employers are prohibited from retaliating against former employees when the action is specifically designed to interfere with the former employees' future employment opportunity. Types of retaliation against former employees include, but are not limited to, the refusal to give employment references, negative employment references, or the dissemination of information regarding the former employee's statutorily protected activity. Negative employment references alone will not constitute retaliation unless the motive for the negative reference was retaliatory in nature.

How to File a Complaint of Retaliation

Any employee/student who wishes to file a complaint of retaliation must complete an affirmative action complaint form and submit it to AADR. AADR will determine if an investigation is warranted. Any subsequent investigation in this regard will be conducted independently from any previously filed complaint or investigation results.

Establishing a Case of Retaliation

In order for an employee to establish a case of retaliation, the employee must show that:

- The employee engaged in a statutorily protected activity;
- The employee suffered an adverse employment action and;
- There is a causal link between the statutorily protected activity and the adverse employment action.

An employee engages in a statutorily protected activity when the employee opposes an unlawful employment practice or participates in any proceeding opposing such conduct that is prohibited by non-discrimination statutes or by this policy. In general, this occurs when the employee, explicitly or implicitly, communicates to the employer that the employer's activity may be considered unlawful or makes a charge, testifies, assists, or participates in any way, in an investigation, proceeding, hearing, or litigation regarding the non-discrimination statutes. This includes participation in proceedings conducted by AADR, EEOC, the Illinois Human Rights Commission, Union, or the Courts.

A violation of this provision *can* be found absent a finding that the opposed activity is actually unlawful. Additionally, the protection against retaliation extends to individuals who are closely related to or associated with the individual opposing the unlawful employment practice and/or may extend to employers who refuse to hire an individual based on the knowledge that the employee was opposed to employment practices of the previous employer.

Adverse employment actions include, but are not limited to, obvious events such as discharge, demotion, suspension, denial of promotion and/or job benefits, or a refusal to hire. Other examples include, but are not limited to, threats, reprimands, unsubstantiated negative evaluations, harassment, or acts of sabotage against employees that are either condoned or directed by the employer. Acts such as "dirty looks" or reluctance to speak to or associate with an employee does not constitute adverse employment actions for the purposes of this definition.

For the purposes of this policy, any action that is reasonably likely to deter an employee/student from engaging in a protected activity will be viewed as an adverse employment activity and a violation of this provision and policy.

A causal link between the statutorily protected activity and the adverse employment action can be established when there is evidence to prove that the employer has engaged in the adverse employment action solely because the employee engaged in the protected activity. The causal link can be established through direct evidence or by circumstantial evidence that established an inference in the timing of the events.

Appendix F
**UNIVERSITY STATEMENT PROHIBITING
DISCRIMINATION ON THE BASIS OF VESSA**

University Statement

University policy prohibits discrimination and retaliation against victims or perceived victims of domestic or sexual violence in accordance with the provisions stipulated by the Victims Economic Security and Safety Act (VESSA). University policy strictly adheres to the provisions of this act and prohibits discrimination or retaliation against qualified individuals in all employment and academic decisions. Northern Illinois University is committed to the promotion of a positive and supportive academic and employment environment. In accordance with this commitment, employment/academic decisions that are designed to disadvantage victims of domestic or sexual violence are considered discrimination under VESSA and a violation of university policy.

Victims Economic Security and Safety Act (VESSA)-Defined

The Victims Economic Security and Safety Act (VESSA) protect victims of domestic or sexual violence from employment discrimination or retaliation. Discrimination refers to both the terms and conditions of employment, as well as, the failure to make reasonable accommodations for known limitations that derive from circumstances relating to being a victim of domestic violence or a family or household member being a victim of domestic or sexual violence of an otherwise qualified applicant. Retaliation is any action that interferes with an individuals' exercise of rights under the act or university policy. In accordance with this act, an individual may not be discriminated/retaliated against because she/he:

- is or is perceived to be a victim of domestic or sexual violence;
- has attended, participated in, prepared for, or requested leave to attend, Participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic violence or sexual violence of which the individual or a family or household member was a victim; or
- has requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure in response to actual or threatened domestic violence, regardless of whether the request was granted; or
- The workplace is disrupted or threatened by the action of the person whom the individual states has committed or threatened to commit domestic violence or sexual violence against the individual or the individual's family or household member.

Pursuant to the act, a qualified individual is an individual who, but for being a victim of domestic or sexual violence or perceived victim of domestic or sexual violence, can perform the essential functions of the employment position that such individual holds or desires.

Under VESSA, the employer is required to make reasonable accommodations for known limitations that derive from circumstances relating to being a victim of domestic violence or sexual violence or a family or household member being a victim of domestic or sexual violence of an otherwise qualified applicant. Reasonable accommodations may include the following:

- an adjustment to the job structure, workplace facility or work requirement, including a transfer, reassignment or
- modified schedule, leave, changed telephone number or seating assignment or
- installation of a lock or implementation of a safety procedure, in response to actual or threatened domestic or sexual violence.

The university will not be obligated to make “reasonable accommodations” for individuals who are not considered qualified individuals under VESSA or if such would impose an undue hardship on the operation of the business. An undue hardship is defined as an action that requires significant difficulty or expense and will be determined on a case-by-case basis by the VESSA Coordinator.

Pursuant to the act, an employee who is a victim of domestic or sexual violence or who has a family member who is a victim of domestic or sexual violence may take unpaid leave to address domestic or sexual violence by:

- seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee’s family or household member;
- obtaining services from a victim services organization for the employee or the employee’s family or household member;
- participating in safety planning, temporarily or permanently relocating, or taking other actions to increase safety or ensure economic security for the employee or the employee’s family or household member;
- seeking legal assistance or remedies including, preparing for or participating in any civil or criminal proceeding related to or derived from domestic or sexual violence.

How to File an Affirmative Action Complaint Based Upon VESSA

In order to file a complaint of discrimination or retaliation based upon VESSA, the employee/student must be able to prove that he/she is a qualified individual as defined by VESSA. An Affirmative Action Complaint on this basis cannot be investigated if the individual fails to prove that he/she is a qualified individual as covered by VESSA and defined in this policy.

Appendix G

SUPERVISOR GUIDE ON HOW TO ADDRESS POSSIBLE POLICY VIOLATIONS

General guidelines for supervisors on how to address possible policy violations of this policy are outlined below. This information is advisory only and does not have to be utilized. However, departments are strongly encouraged to adapt and document a standard set of procedures on how to conduct a departmental inquiry into alleged policy violations.

The Initial Interview

The purpose of this interview is to determine employee/student issues/concerns, to understand the course of action the individual is seeking, and to gather enough facts and information to determine if an investigation is warranted. During the initial interview:

- Assist the employee/student to regain a sense of balance and confidence and help them understand how the process will proceed.
- Discuss the issues of retaliation and re-assure the employee/student that it is a policy violation to retaliate against an employee/student who seeks assistance through this policy. Also advise the individual that the departmental inquiry will be conducted in a confidential manner.
- Maintain neutrality by using statements such as “I know this may be hard for you to discuss.”
- Ask non-judgmental, open-ended questions such as “what happened next?” instead of “were you wearing the same shirt when the incident occurred?”
- Explain that the university does not condone employment discrimination/harassment in any form and give him/her a copy of this policy.
- Inquire what course of action the individual would like to occur, explain if this is possible and discuss other options that might be available.
- If appropriate refer the individual to other campus units that may be able to provide additional assistance such as the University Resources for Women, Office of Employee Assistance and Wellness, the Office of the Ombudsman, or Counseling and Student Development Center.
- Make a follow-up appointment, if necessary, to discuss what will occur next and to briefly summarize the issues that were discussed during the initial interview.
- Document your conversation and forward a written memorandum to the employee/student summarizing your discussion.
- Make sure that the employee/student is aware that a formal University Affirmative complaint process is available to pursue the concerns raised. Also advise that this policy be consulted and provide assistance accessing the University Complaint Procedures as necessary. Inform AADR and seek assistance in implementing adequate responses or monitoring mechanisms in relation to the concerns raised.

The following is a list of specific questions that may be asked during the initial interview:

- What happened?
- Where did it happen?
- Who was involved?
- When did it happen?
- How often has this occurred?
- How did the conduct affect you?
- Were there any prior problems with the offending party?
- Did you discuss the incident with your supervisor?
- Did anyone witness this? If so, who?
- What did you say or do? What did (the alleged harasser) then say or do?
- Do you have any other information or documents, such as notes or e-mails that might be helpful?

Some General Guidelines for Conducting the Inquiry

- Make arrangements to interview the alleged offender and other witnesses;
- Make arrangements to interview the employee/student filing the complaint;
- Collect all relevant documents such as information concerning prior complaints, supervisory notes, etc.;
- Identify potential area of questions.

General Guidelines for Interviewing Witnesses

Although it is important to respond to a complaint as quickly as possible, it is equally important to take time to prepare and understand the nature of the complaint. Below are some hints that may be helpful when interviewing witnesses.

- Create a checklist of the key points that should be discussed;
- Note the date, time, and location of each interview;
- Take detailed notes of exact words that were used by the witness. Avoid making personal assumptions or conclusions;
- Ask open-ended questions initially and then move to a more specific form of questioning;
- Make sure you require the witness to distinguish between firsthand knowledge and hearsay information.

General Guidelines for Interviewing the Alleged Offender

Once you have determined that an inquiry is warranted, the alleged offender must be afforded notice of the complaint and the opportunity to respond. Below please find some general guidelines that may be helpful during the interview with the alleged offender.

- Inform the alleged offender that you are conducting an inquiry in relation to the institution's policy against discrimination, harassment, or retaliation;
- Describe your role in the process;

- Describe the allegations contained in the complaint. Make sure you allow the alleged offender to respond to each specific allegation;
- Inform the alleged offender that retaliation is prohibited, advise the alleged offender to discuss the complaint with these individuals;
- Allow the alleged offender to provide the names of additional witnesses or other evidence that may contradict the allegations;
- Make a final conclusion based upon the totality of the circumstances;
- Do not:
 - a) Accuse the alleged offender of the allegations;
 - b) Make promises regarding the investigation or outcome;
 - c) Reveal the identities of the witnesses;
 - d) Discuss the merits of the complaint;
 - e) Indicate that a conclusion has been reached.

Writing the Report

Once the inquiry is complete, document the final conclusion, resolution, and the evidence on which the conclusion was based. A summary of this written report should be forwarded to both parties.

Additionally, if resolution at this level is not possible, the department should encourage the employee/student filing the complaint to seek the assistance of AADR, its designee, or Human Resource Services. Any effort by the department to discourage an employee or student from seeking assistance from AADR or HRS is a violation of this policy and may be considered a form of retaliation. Such conduct includes, but is not limited to, threats against the employee/student, coercion, adverse effect upon employee/student benefits or conditions of employment/educational access, or the refusal of release time during the workday for the employee/student to consult with and/or file a complaint with AADR.

Appendix H

MEDIATION PROCESS, PROCEDURES AND THE MEDIATION AGREEMENT

Mediation Process – Defined

The Mediation Process is a voluntary process that provides a method for the parties to discuss their workplace issues/concerns with each other directly, as facilitated by a neutral mediator in a non-confrontational and non-intrusive setting.

Ideally, this process should occur prior to any inquiry, investigation or disciplinary action that will be conducted by Affirmative Action and Diversity Resources (AADR), Human Resource Services (HRS) or respective department. However, this process may be explored at any time prior to a final decision resulting from an inquiry, investigation or disciplinary action. If a final decision has been rendered by the appropriate administrative unit, the issues/concerns contained in the complaint, grievance or disciplinary action cannot be resolved via the mediation process.

The Mediation Process is not available for issues/concerns involving tenure decisions, unlawful discrimination, and harassment, serious acts of misconduct, criminal behavior or matters concerning termination or discharge from the university unless the parties and the university agree that this process will be useful. This service is available to all faculty, supportive professional, operating staff members, and student employees. AADR reserves the authority to approve the content of all Resolution Agreements and to assign staff mediation services.

Affirmative Action and Diversity Resources strongly encourages the use of this service. This program gives each party an opportunity to engage in open and honest communication with each other and, with mediation services, to receive constructive and objective techniques on how to resolve the issues/concerns involved in the matter by designing a course of action that is agreeable to both parties. It is the intent of this program to effectively achieve a permanent and effective resolution and to create a stronger working relationship between both parties. If all parties agree to participate in the mediation process, a Mediation Conference will be conducted by a neutral mediator in accordance with the procedures as stipulated in this policy.

Mediation Conference – Process and Procedures

The party seeking mediation must complete the Mediation Request Form and submit it to AADR for review. This form will be forwarded to the responding party in order to provide him/her with enough information regarding the mediation request. If both agree to participate in the Mediation Process, a Mediation Conference will be conducted by a neutral mediator at a time mutually convenient for both parties within 30 days from the date of acceptance.

During the conference, each party will have the opportunity to discuss the issues/concerns contained in the complaint, grievance or proposed disciplinary action. The conference is not a fact-finding process, investigation, and/or grievance hearing. The conference will not result in any decision regarding the merits of the specific case or issue.

The typical length of the conference will not exceed two hours. Each party will have the opportunity to state his/her position regarding the complaint/grievance and possible resolutions. Each party will be required to read and acknowledge receipt of the conference rules prior to commencement of the conference.

Support persons may attend the conference; however, testimony from any individual other than the parties to the complaint/grievance will not be permitted. The number of support persons allowed to attend a conference will typically be limited to one per party. Either party may elect to have his/her attorney present during the conference. However, legal representation is not required. If the support person is a licensed attorney, such disclosure must be made in advance to give the university an opportunity to arrange for attendance of counsel. If the support person is a licensed attorney who will not be acting in an “of counsel capacity,” this must be formally acknowledged in a written disclosure.

The role of the mediator is to assist in facilitating an open and honest discussion between the parties in a neutral, non-intrusive setting and to assist in developing recommendations for resolution by providing constructive feedback and suggestions. The mediator will not discuss the merits of the complaint, grievance or disciplinary action during the conference. All notes, records, or other documents discussed during the conference and/or submitted to the mediator will be destroyed immediately upon the conclusion of the conference proceedings.

Mediation Agreement – Defined

A binding agreement known as the Mediation Agreement will result if a settlement is reached during the mediation conference. This agreement is considered a contractually binding agreement between the parties and the university. The agreement may contain relevant information regarding the matter that is the subject of the complaint, applicable university policies and procedures, acknowledgment or awareness that these policies may have been violated and other terms, conditions, and/or restrictions as may be set forth by the agreement. This agreement may be revoked by either party within 72 hours from the date of acceptance. If the Mediation Agreement is revoked by either party, an investigation on the merits of the complaint, grievance or disciplinary action will be conducted by AADR or another applicable unit of the university.

Further action on the relevant incident(s) will occur if a subsequent complaint or grievance is submitted and/or if the terms or conditions in the Agreement are violated by either party. The information discussed by the parties during the conference will not be disclosed to either party and will be destroyed upon completion of the conference. Individuals who intentionally refuse to honor the terms of the agreement and/or the rules of confidentiality are subject to disciplinary action.

Appendix I
EXTERNAL FILING PROCEDURES

Equal Employment Opportunity Commission (EEOC)

Title VII is principally enforced by the Equal Employment Opportunity Commission (EEOC). This authority of enforcement allows the EEOC to monitor employment practices by investigating charges filed by individuals or by a commissioner of the EEOC.

For claims of discrimination under Title VII, the ADA, and the ADEA, the charge must be filed within 180 days after the alleged unlawful employment practice has occurred unless the aggrieved individual has instituted proceedings with a state or local agency. If a person has instituted proceedings with a state or local agency, the aggrieved individual must file a charge within three hundred (300) days after the alleged unlawful employment practice has occurred or within thirty (30) days of notice that the state or local agency has terminated the proceeding, whichever is earlier.

For more information on EEOC filing procedures contact:

Equal Employment Opportunity Commission Headquarters

U.S. Equal Employment Opportunity Commission

1801 L Street, N.W.

Washington, D.C. 20507

Phone: (202) 663-4900

TTY: (202) 663-4494

Chicago District Office

Equal Employment Opportunity Commission

500 West Madison Street

Suite 2800

Chicago, IL 60661

Phone: (312) 353-2713

TTY: (312) 353-2421

Or go to their website at www.eeoc.gov

Illinois Department of Human Rights (IDHR)

The Illinois Human Rights Act (IHRA) generally forbids unlawful discrimination on the basis of race, color, religion, national origin, ancestry, age, sex, marital status, disability, military status, or unfavorable discharge from military service. The IDHR is responsible for the administration and enforcement of this Act, including the acceptance or initiation of charges alleging unlawful discrimination and the investigation to resolve such.

In general, under the IHRA, a charge may be filed at any time within 180 days after the occurrence of an alleged violation. For more information regarding filing procedures, dual filing with the EEOC, and other time limitations, please contact the IDHR at:

Illinois Department of Human Rights
Chicago
Department of Human Rights
James R. Thompson Center
100 West Randolph Street, Suite 10-100
Chicago, Illinois 60601
(312) 814-6200
(312) 263-1579 (TDD)

Springfield
222 South College, Floor 1
Springfield, Illinois 62704
(217) 785-5100
(217) 785-5125 (TDD)

Or go to their website at www.state.il.us/dhr

Appendix J
Northern Illinois University
Affirmative Action and Diversity Resources
Affirmative Action Complaint Form

Today's Date: _____

Fill out form and return to: Affirmative Action & Diversity Resources
Northern Illinois University
Attn: AADR Investigations
1515 W. Lincoln Hwy
DeKalb, IL. 60115

CONTACT INFORMATION

Name (Please Print)

Address

Department

Office Telephone Number

TYPE OF ALLEGED DISCRIMINATION (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Age | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Race | <input type="checkbox"/> Sexual Harassment |
| <input type="checkbox"/> Color | <input type="checkbox"/> VESSA |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Disability | <input type="checkbox"/> National Origin |
| <input type="checkbox"/> Veterans' Status | <input type="checkbox"/> Marital Status |

Retaliation

For the purposes of this process, retaliation is defined as retaliatory conduct against an individual who has opposed that which he/she believes to be unlawful discrimination, sexual harassment in employment/education or because he/she has made a charge, filed a complaint, testified, assisted or otherwise participated in an investigation, proceeding or hearing concerning an unlawful employment practice.

DETAILS OF THE COMPLAINT

Date(s) the alleged complaint(s) occurred: Witness (es) (if any):

Witness one

Witness two

Who has allegedly engaged in the discriminatory activity?

Name

Department

Name

Department

DESCRIPTION OF COMPLAINT (attach additional sheet if necessary)

WHAT ACTION HAS BEEN TAKEN?

REQUESTED ACTION TO BE TAKEN
